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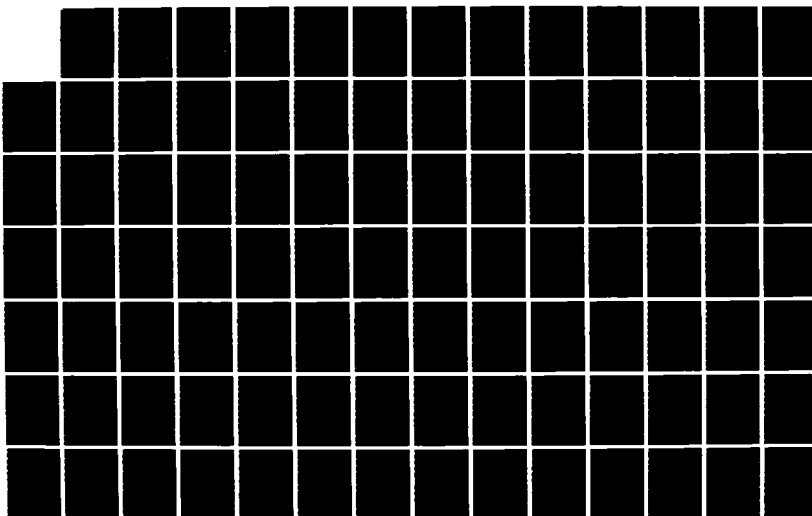
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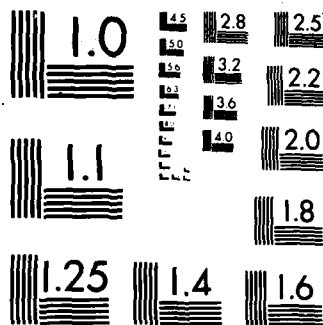
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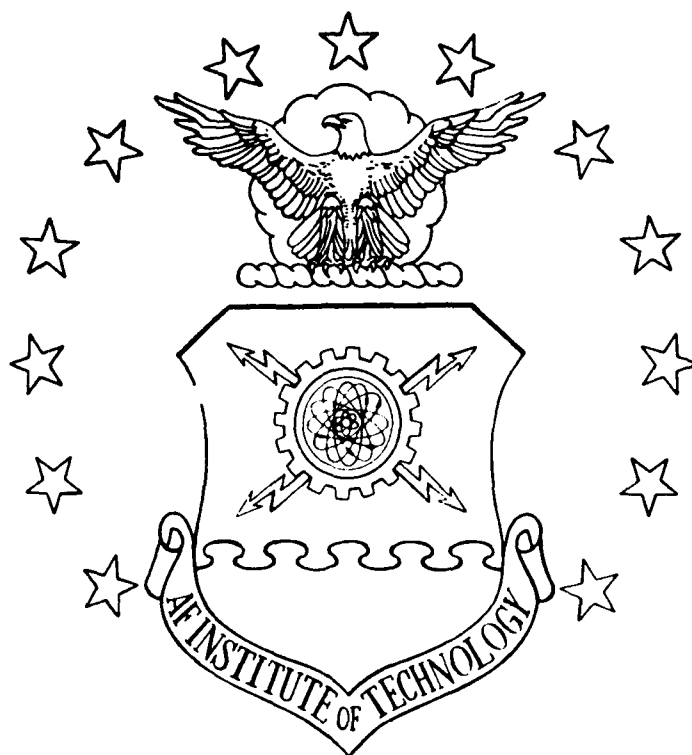
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CONTRACTOR RESPONSIBILITY DETERMINATION
BY THE SMALL BUSINESS ADMINISTRATION
AND BY DEPARTMENT OF DEFENSE
CONTRACTING OFFICERS:
A COMPARISON AND CASE STUDY

THESIS

Patricia E. Delaney-Rios
Captain, USAF

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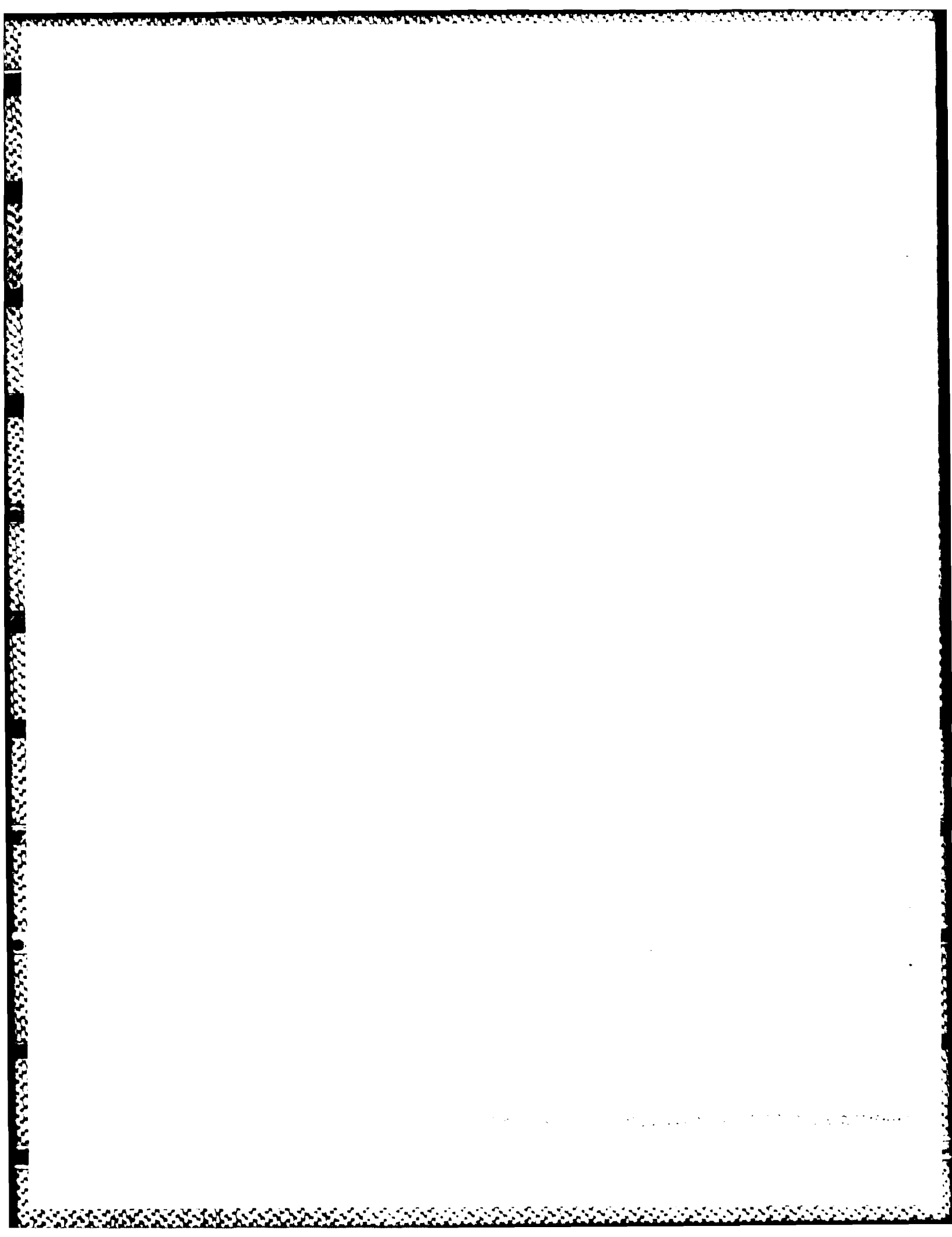
CONTRACTOR RESPONSIBILITY DETERMINATION BY THE
SMALL BUSINESS ADMINISTRATION AND BY DEPARTMENT
OF DEFENSE CONTRACTING OFFICERS:
A COMPARISON AND CASE STUDY
THESIS

Presented to the Faculty of the School of Systems and Logistics
of the Air Force Institute of Technology
Air University
In Partial Fulfillment of the
Requirements for the Degree of
Master of Science in Logistics Management

Patricia E. Delaney-Rios, B.S.
Captain, USAF

September 1986

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Preface

I am most grateful to my thesis advisor, Lt Col Gary L. Delaney, for his patience and guidance throughout this research effort. His assistance and optimism were invaluable throughout this unique learning experience.

I also wish to express my deepest appreciation to Ms. Claudia Naugle from the Office of Small and Disadvantaged Business Utilization (SecAF) for her guidance. Ms. Naugle's technical assistance was crucial for guaranteeing the accuracy of information contained in this thesis.

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Most of all, I owe much gratitude to my husband, Rick, for his empathy and advice throughout this research.

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Patricia E. Delaney-Rios

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Abstract

The Small Business Administration (SBA) is authorized to certify small businesses as competent with respect to all the elements of responsibility for the exclusive purpose of performing a single government contract. The SBA issues the business a Certificate of Competency (COC) which overrides the contracting officer's determination of nonresponsibility and requires award of that specific contract to the firm.

The guidance contained in the SBA's Certificate of Competency Standard Operating Procedure, SOP 60 04 3, was compared with the guidance contained in the Federal Acquisition Regulation, and the Defense Logistics Agency Manuals 8300.1 and 8200.2 used by the Defense Contract Administration Service (DCAS) for conducting preaward surveys on behalf of Department Of Defense contracting officers.

The COC appeal files at the Office of Small and Disadvantaged Business Utilization (OSDBU) of the Office of the Secretary of the Air Force were reviewed to gain an understanding of the quantity of Air Force appeals undertaken. One COC appeal undertaken by the Air Force on behalf of an Air Force Logistics Command Air Logistics Center contracting officer and subsequently lost was selected for a case study analysis.

Three recommendations based on weaknesses identified by this research are: 1) expand the COC Quarterly Report, RCS: DD-DR&E (Q) 1152, to list the reason(s) for the contracting officer's referral, to include more detail in the "Final Disposition" column, and to total the number of COC contracts awarded during that quarter; 2) inform contracting officers of the COC appeal process and encourage more appeals; 3) provide more definitive guidance in the procedures used by the contracting officer for assessing contractor responsibility in the areas of tenacity and perseverance, and integrity. Revise the SBA COC Procedures to measure contractor delivery performance against the original delivery schedule except when adjustments were necessitated by the government's actions.

CONTRACTOR RESPONSIBILITY DETERMINATION BY THE
SMALL BUSINESS ADMINISTRATION AND BY DEPARTMENT
OF DEFENSE CONTRACTING OFFICERS:
A COMPARISON AND CASE STUDY

I. Introduction

General Issue

Since the 1940s, the United States Congress has fostered innovation and technological growth in small businesses by establishing procurement policies which place these firms in a competitive position to receive Government contracts. Consider these examples: small business programs were established within the War Production Board and Smaller War Plant Corporation during World War II to utilize the abilities of small businesses; in 1947, the Armed Services Procurement Act was introduced to enhance small business participation in post-war Government contracts (50:15-16).

In July 1953, Title II of Public Law 163 (Chapter 282), referred to as the "Small Business Act of 1953," was passed (44). As stated in this legislation the declared policy of Congress is that:

The Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts or

subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for maintenance, repair and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the over-all economy of the Nation. The Small Business Act created and vested powers with the Small Business Administration (SBA). It also defined a small business concern as one which is 'independently owned and operated and which is not dominant in its field of operation.' Additional criteria such as number of employees and dollar volume of business are used based on the type of business in which the firm is engaged. (44)

To carry out the declared policy of Congress, the Small Business Act established an agency of the Federal Government called the Small Business Administration (SBA) whose purpose was to develop "the actual and potential capacity of small business" (44). The SBA strives to accomplish its objectives by guaranteeing "that small business concerns, especially new entrants into the federal government market, are afforded a fair opportunity to receive government contracts" (18:7). The SBA has 96 field offices throughout the United States which includes many district offices, ten regional offices, and a central office in Washington, DC headed by an administrator who has direct lines of communication to the President of the United States (19:4;44). The SBA was empowered with the authority to:

1. Make loans to small businesses for the purchase of land, equipment, and materials for production, and for the construction of new facilities as well.

2. Make housing and land acquisition loans for people displaced by floods or other catastrophes.
3. Enter into contracts to furnish the Government equipment, supplies or materials.
4. Administer these contracts to small business concerns or others for the purchase of goods or services for the Government.
5. Furnish small businesses with managerial and technical advice in cooperation with voluntary business, professional, educational and other agencies, and to maintain and disseminate descriptive information about small business firms.
6. Conduct or arrange for a complete physical inventory of all productive facilities owned by small business concerns which could be used for war or defense production and use this information to plan for their most efficient use.
7. Upon Presidential direction, act as the guardian of the small businessman by reviewing policies under consideration by other governmental agencies and advising them as to the likely impact upon small businesses. Included are controls on pricing, credit, and other requirements mandated by war or defense programs.
8. Promote contracting with small business concerns at the prime contractor and subcontractor levels by

working with contracting officials and other governmental agencies to obtain the information necessary to utilize small businesses to the maximum extent possible.

9. Certify to government contracting officers as to the competency of small business as it relates to capacity and credit for the exclusive purpose of performing a specific government contract. This certification is known as a Certificate of Competency and was conclusive with respect to capacity and credit.
10. Insure that small business concerns receive their fair share of materials for production by reviewing the allocation methods of suppliers and advising Federal agencies of needed changes when small businesses have difficulties producing goods for war or defense as a result of resource shortages.
11. Coordinate with the contracting officer to determine contracts which should be awarded to small businesses because doing so would "(a)...be in the best interest of mobilizing the Nation's full productive capacity, or (b) to be in the interest of war or national defense programs".
12. Furnish a bi-annual report to the President outlining contracting and financing arrangements

for small businesses and recommending changes the SBA deems appropriate (44).

Problem Statement

The Small Business Act was amended by Public Law 95-89, Small Business Act Amendments of 1977, which gave the SBA the power to certify small businesses as competent with respect to all elements of responsibility, not just capacity and credit. By allowing the SBA to issue Certificates of Competency (COCs), the power to control much of the contract award process, as it pertains to small businesses, is taken away from the contracting officer. When a contract is awarded to a firm which subsequently fails to meet its contractual requirements, delays in receiving the supplies or completed services are encountered and the Air Force loses valuable time and money. This thesis did not address the socioeconomic issue of whether small businesses should receive COCs. Instead, it was concerned with prime contracts for products or services awarded by the Air Force Logistics Command's (AFLC) Air Logistics Centers (ALCs) to small businesses as the result of a COC having been issued by the SBA following a formal appeal by the Secretary of the Air Force. The objective of this research was to determine whether these small businesses had significant problems in carrying out their contractual responsibilities.

Background

The contracting officer at a government contracting facility determines whether a firm is "responsible" before awarding a contract to the firm (10:9-1). As stated in the Federal Acquisition Regulation, the contractor must satisfy these requirements to be considered "responsible":

1. Have adequate financial resources to perform the contract, or the ability to obtain them.
2. Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
3. Have a satisfactory performance record.
4. Have a satisfactory record of integrity and business ethics.
5. Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them....
6. Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them.
7. Be otherwise qualified and eligible to receive an award under applicable laws and regulations. Additional standards apply specifically to construction firms. (10:9-1)

The contracting officer may make the determination of responsibility from data on the contractor which is already available or conduct a preaward survey to obtain the needed information (10:9-3). A preaward survey (PAS) is an "evaluation by a surveying activity of a prospective contractor's capability to perform a proposed contract" (10:9-1). A surveying activity is "a cognizant contract administration office, or if there is no such office, another organization designated by the agency to conduct preaward surveys" (10:9-1). An example of a contract

administration office or activity is an office of the Defense Contract Administration Service (DCAS) which performs preaward and postaward functions for DOD contracting officers based on the geographic area which it serves (10:9-3,42-1). For instance, when a contracting officer at the Sacramento Air Logistics Center awards a contract to a firm on the east coast, it is not practical for the contracting officer to perform the PAS. The responsibility of performing the PAS is delegated to the DCAS office serving the area where the contractor's facility is located. The DCAS office will furnish the contracting officer with the results of its survey which includes a positive or negative recommendation for awarding the contract to the firm (10:42-1). The contracting officer may concur with the results of the PAS or may disagree and "override" the negative or positive findings. One reason for an override by the contracting officer is the presentation of new information between the time following completion of the PAS and the time before the contracting officer makes a decision of responsibility.

As a rule of thumb, for all contract types valued at \$25,000 or less and those with a firm fixed price less than \$100,000, a PAS should not be requested. However, a PAS needs to be conducted and the results documented when the contracting officer believes the firm is not responsible enough to receive the contract, or when other conditions

justify the cost of performing the PAS. In addition, a determination by the contracting officer that a small business is not responsible requires a referral for consideration of a Certificate of Competency to the Small Business Administration (10:9-3).

Certificate of Competency Program

The Certificate of Competency program is the avenue by which the contractor may "appeal" the negative preaward survey and possibly receive the contract. A Certificate of Competency is a written instrument issued by the SBA for the performance of one contract only and states that the

holder is responsible (with respect to all the elements of responsibility, including but not limited to capability, competency, capacity, credit, integrity, perseverance, and tenacity) for the purpose of receiving and performing a specific Government contract. (10:19-2)

The SBA will review the case and make its own determination of responsibility. If the SBA determines the firm to be responsible, it issues a COC which requires the contracting officer to award the contract to the firm. Although this process seems simplistic, there are many factors which affect the final outcome of a COC referral. This process--the COC process--is explained in detail in the next section.

A Regional Administrator is appointed to each of the ten SBA Regional Offices. The Regional Administrator has the authority to approve COC issuances for contracts with a

monetary value less than or equal to \$500,000, not including the value of any contract options, plus deny COCs for all contracts regardless of monetary value (38:13). That ceiling was temporarily increased to \$5 million for a period of one year beginning 24 December 1985 (18:19). An exception to the Regional Administrator's authority to deny COCs are cases referred to the SBA based on a finding that the small business does not satisfy the requirements of the Walsh-Healey Public Contracts Act. The Walsh-Healey Public Contracts Act mandates that for supply contracts valued greater than \$10,000, the contractor must be "the manufacturer of, or a regular dealer in, the materials, supplies, articles, or equipment to be manufactured, or used in the performance of the contract" (38:43). In cases which the administrator does not have the authority to make the final decision (e.g. approval authority for contracts greater than \$500,000) the Regional Office's recommended action along with the case file are forwarded to the SBA Central Office for its determination of responsibility (38:13). If the SBA Central Office concurs with the finding that the firm does not satisfy the requirements of the Walsh-Healey Act, the case is forwarded to the Department of Labor for its review (38:43).

Certificate of Competency Process. The actions of the contracting officer, the SBA, and the small business dictate which path the COC process will take; the path taken, in

turn, dictates the eventual outcome of a COC referral. The COC process is diagrammed in the Appendix and a detailed explanation of the process follows.

The COC process begins when the contracting officer makes a COC referral to an SBA Regional Office. The SBA will notify the firm of its right to apply for a COC. If the firm says it intends to apply for a COC, the SBA will set a deadline for submission of the application. After the firm's complete application has been received, the SBA will then make firm arrangements for completion of a plant survey and/or financial analysis (38:25,29). If the firm elects not to apply for a COC, or if its application is incomplete or late, the contract will be awarded to the next lowest responsible bidder, and the COC file is retired (38:25-26).

The SBA will begin processing the COC referral provided that the company submits a complete and timely COC application. Processing of the referral begins with the SBA reviewing all the pertinent documentation concerning the contract (requirements of the contract, results of the PAS, drawings and specifications, etc.). The SBA then conducts a plant survey of the business or meets with company officials, whichever is necessary, to investigate the area(s) in which the contracting officer feels the contractor is lacking and to make its own determination of responsibility (38:28). If the SBA concurs with the negative findings of the preaward survey, the COC is denied

and the contract is awarded to the next lowest responsible bidder.

If the SBA finds the contractor to be responsible it must inform the contracting officer of its intent to issue a COC prior to doing so. Advance notice is required to give the contracting officer an opportunity to refute the SBA's findings and/or to initiate a formal appeal of the COC issuance (38:24).

Using data obtained from their own surveys, the contracting officer and the SBA will discuss their assessments of the contractor's capabilities and compare the capabilities with the requirements of the contract. The optimal situation would be for either the SBA or the contracting officer to change its position and for them to reach an agreement as to the ability of the contractor to perform the specific contract. This exchange of information may result in one of four immediate outcomes: 1) The contracting officer may find in favor of awarding to the contractor, withdraw the COC referral, and make the award to the contractor--a direct award. 2) The contracting officer may require that a COC be issued before awarding to the firm but does not intend to challenge the COC issuance. 3) The SBA may believe that extenuating circumstances, or other factors presented by the contracting officer warrant disapproval of COC issuance to the firm. 4) Or, the contracting officer may still feel strongly about not

awarding to the firm and request that the SBA Regional Office handling the referral forward the case to the SBA Central Office for its review (10:19-15).

The Central Office will analyze the information and notify the contracting officer and the Regional Office that forwarded the case of its determination of contractor responsibility. If the Central Office does not concur with the Regional Office's decision to issue a COC, the COC file will be retired and the contract will be awarded to the next lowest responsible bidder. If the Central Office concurs with the Regional Office's recommendation to issue a COC, the contracting officer will be given the option to accept the COC without a challenge or to request a formal appeal of the COC issuance (10:19-15).

Utilizing the chain of command, the contracting officer requests that a formal appeal of an intended COC issuance be undertaken by the Office of Small and Disadvantaged Business Utilization (OSDBU). The OSDBU is delegated this authority by the Secretary of the Air Force. The OSDBU will then review the case and decide whether a formal Air Force appeal of the decision is warranted based on the supporting justification furnished by the contracting officer. In either case, the SBA will be notified of the OSDBU's intent. A decision by the OSDBU not to appeal the COC issuance will trigger issuance of the COC by the SBA. The contracting officer must then award the contract to that firm. A

decision by the OSDDBU to appeal the issuance will require the SBA to delay issuing the COC pending the outcome of the appeal. The OSDDBU will present to the SBA its justification for denying issuance of the COC to the contractor (33). The SBA will then review the justification and make its final decision; the SBA's decision is then binding upon the contracting officer (10:19-15,19-16).

For the purpose of this research a COC contract is one which is awarded by the contracting officer after the issuance of a Certificate of Competency by the Small Business Administration. A non-COC contract is one which is awarded after the contracting officer received positive results from a preaward survey, or after the contracting officer overrode a negative preaward survey, or after the contracting officer concurred with evidence of a firm's responsibility presented by the SBA and awarded the contract without a COC.

Research Objectives

The objectives of this research were: 1) to determine the quantity of appeals undertaken by the Office of Small and Disadvantaged Business Utilization (SecAF) which were subsequently lost, during the time period from the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985; 2) to determine whether these small businesses had significant problems in carrying out their contractual responsibilities; 3) to determine the impact of

any problems on the Government; and 4) to assess the areas in which the procedures for determining contractor responsibility used by the Small Business Administration differ from those used by Department of Defense contracting officers.

Research Questions

The objectives of this research are satisfied by answering the research questions stated below. The answers to these questions were obtained primarily from written documentation obtained in contract files of the OSDBU, the AFLC Trial Attorney's Office, and organizational directives from the SBA and DCAS.

1. How requests for a formal appeal of an intended COC issuance were received by the OSDBU of the Office of the Secretary of the Air Force from ALC contracting officers from the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985? Of those requested by ALC contracting officers, how many appeals were undertaken by the OSDBU? How many appeals undertaken by the OSDBU on behalf of an ALC contracting officer were lost?
2. In cases in which the OSDBU appealed the COC issuance, but the SBA issued the COC anyway, how was the performance of those contractors? Were deliveries under the contracts late? If so, how late? Were there cost overruns? Did the items

meet the required specifications? Did contract defaults result?

3. If the material or service did not meet the required specifications or if there were delays and/or defaults, did they result in grounding of a weapons system or impairment of combat capability?
4. Did the Government incur any tangible costs, not reimbursed by the contractor, resulting from the contractor's failure to provide products or services that meet the specifications, cost overruns, delays in delivery, or defaults?
5. Are there any differences in the procedures used by Department of Defense contracting officers and by the SBA for determining contractor responsibility which could result in opposing determinations?

Scope

Contracts awarded by the five Air Force Logistics Command ALCs because of a COC issuance following an unsuccessful Air Force formal appeal of the proposed issuance were selected for this research. Three reasons for the establishment of this research criteria follow. First, AFLC awards the largest number of contracts triggered by a COC compared to any other command. In a previous AFIT thesis, Davis and Simko found that in fiscal year 1978, 122 of the 162 Air Force contracts awarded because of a COC issuance were awarded by AFLC (5:25). Second, the five ALCs

function with the Standard Base Supply System (SBSS) to comprise the wholesale/retail chain for many supply items and services critical to the daily mission of Air Force bases throughout the United States and abroad. Third, very few formal appeals of a COC issuance are requested by contracting officers; therefore, when an appeal through the OSDBU is requested, the contracting officer must feel strongly about challenging the COC issuance (33).

Limitations

There are four major factors which limited the ability to make generalizations from this research. First, the socioeconomic issue of whether or not COCs should be issued to small businesses was not addressed. Second, there were no comparisons between contractor performance on contracts awarded to small businesses after receiving an initial positive preaward survey and those awarded because of a COC issuance. Therefore, no generalizations as to contractor performance under COC and non-COC contracts can be made. Third, there were no comparisons between contractor performance on COC contracts awarded to small businesses following an appeal request which was not granted by the OSDBU and COC contracts for which an appeal was granted by the OSDBU and lost. Thus, no conclusions as to the quality of the OSDBU's decisions regarding whether or not to appeal a COC issuance can be made. Fourth, the inclusion of all the information relevant to the COC appeal case study

reviewed by this research was limited because the contractor was terminated for default and the case is currently in litigation.

Overview

The next five chapters include: a Literature Review (Chapter II); the research Methodology (Chapter III); a Comparison of the Small Business Administration's Certificate of Competency Procedures and the Procedures Used By the Contracting Officer for Determining Contractor Responsibility (Chapter IV); a Case Study of Mancro Aircraft Company (Chapter V); and Conclusions and Recommendations (Chapter VI).

II. Literature Review

There has been a large amount of information written concerning small business. Legislators have passed many laws to help small business owners, studies have been accomplished to ascertain the needs of small businesses, and businessmen have written "how to" books on managing the operations of a small business. This review can not possibly encompass all of these many publications. The intent of this literature review is to outline federal government legislation having a significant impact on the Certificate Of Competency (COC) Program; to present information on the role of small business firms in our economy; to review the obstacles all small businesses encounter, and the obstacles encountered by small businesses contracting with the government; and to identify related research concerning small businesses and the SBA.

Legislation Affecting the Certificate of Competency Program

The Small Business Act of 1953, outlined in Chapter I, has been amended numerous times to increase contracting opportunities for small businesses and to provide additional guidance to the Small Business Administration (SBA). Additionally, other laws have been created which improve the financial position of small businesses and encourage their growth. However, only the laws and portions of laws which

affect the Certificate of Competency Program will be covered.

Public Law 95-89. The Small Business Act Amendments of 1977, Public Law 95-89, were passed on 4 August 1977. Passage of this law allowed the SBA to certify small businesses as competent with respect to all the elements of responsibility; prior to this amendment, the SBA could only certify small businesses as competent with respect to capacity and credit. It also removed the contracting officer's discretion to by-pass the COC program to expedite the procurement when the urgency of the requirement justified doing so (50:13).

Public Law 95-507. Title II--Amendments to the Small Business Act, Public Law 95-507, were passed on 24 October 1978. The significant portion of Title II, as it relates to this research, is the establishment of an Office of Small and Disadvantaged Business Utilization (OSDBU) for each Federal agency with Government procurement responsibilities. The OSDBU was empowered to carry out responsibilities delegated to it by the Secretary, or head of its respective agency (43).

Public Law 98-577. The Small Business and Federal Procurement Competition Enhancement Act of 1984, Public Law 98-577, was passed on 27 March 1985. This legislation requires contracting officers to refer all determinations of nonresponsibility of small businesses to the SBA regardless

of contract value (41). The provisions of this law were only recently incorporated into the Federal Acquisition Regulation (FAR) as the DOD was still exempting small purchases (procurements less than \$25,000 accomplished under small purchase procedures) from referral up until 31 July 1986 (32).

From the legislation, it is evident that the SBA's role as the protector of small business concerns has been strengthened by the increased control over the contract award process it has gained since the Small Business Act of 1953. At the same time, an OSDBU was established to act on behalf of the Federal procurement agency heads to implement each agency's duties under the Small Business Act.

Role of Small Business Firms in Our Economy

It has always been held as very important to insure that small businessmen receive their fair share of Government contracts. Of the industries which the SBA oversees (construction, agriculture, services, etc.), over 90% of the firms are small businesses; as a whole they employ a little over half the total number of people working in each particular industry (39:16). They play important roles as employers, innovators, and researchers.

Small businesses, as employers, have had a large impact on the U.S. economy. In 1978, the number of small firms in the agriculture, forestry and fishing, and construction

industries, wholesale trade, retail trade, and services accounted for over 99% of the total number of firms. As a percentage of total employment in the industries, they ranged from 51.3 to 83.7 percent, and as a percentage of total sales they ranged from 62.1 to 82.6 percent (39:16).

Not only are small businesses employers for many people, but they are successful innovators as well. Small firms lack much of the capital and expertise available to larger firms, yet they are responsible for more than two-thirds of the major inventions during the twentieth century (39:23). Members of small firms are not surrounded by rigid regulations and operating procedures which tend to stifle the creativity of larger firms. There are many reasons for the success of small firms as innovators. Small firms may believe that innovation is necessary to keep them successful; managers of these firms have more incentive to innovate as they may be the firm's owners as well; researchers in small firms tend to generalize instead of specialize; and small firms are more flexible and welcome innovative changes whereas larger firms may want to minimize change because of marketing reasons (39:23-24).

As researchers, small firms are often able to make better use of their research dollar than are larger firms. Compared to firms which employ more than 10,000 employees, a small business firm with less than 100 people may generate the same amount of research effort for about one twenty-fifth of the larger firm's costs (39:23).

Obstacles to the Success
of the Small Businessman

In a January 1982 survey of over 2000 small businessmen administered by the National Federation of Independent Business (NFIB), the respondents rated ten areas as problems considered most important. Two-thirds of the businessmen surveyed rated interest rates and financing, inflation, or taxes as being the "most important" (39:24-25).

Interest rates and financing was cited as the "most important" problem by the largest percentage of businessmen. Fifty six percent of those surveyed reported obtaining short-term loans during the third quarter of 1981 with interest rates between 19 and 22 percent (39:26). Also small businesses are unable to get the discount rates given much larger corporations, and depend upon bank financing of debt to a greater extent (39:26).

In their book Taxes, Financial Policy, and Small Business, Day and others draw from a May 1980 survey of 1,000 small firms with 40 to 500 employees, conducted by the Roper Organization for the Heller Small Business Institute, to explain why small businesses rely so much upon bank financing of debt (6:1). For small firms in the early to middle stages of growth, the price an outside investor would be willing to pay for a share of stock is much less than the owner believes the stock to be worth. Additionally by "going public" the entrepreneur has to answer to the stockholders of the company; in many small firms financing

is through the entrepreneur, friends and relatives--people whom the entrepreneur knows. For other small businesses, the legal, accounting, and underwriting fees associated with issuing stock are prohibitive (6:1).

Inflation was rated as "most important" by the second largest percentage of respondents. Although inflation is currently not a problem, its negative impact on small business demonstrates how changes in our economy can severely impact small business operations much more so than the operations of large firms. Increasing inflation raises input prices, yet certain small firms are constrained from raising their prices because doing so would prevent them from remaining competitive with other small and large firms which are less affected by the increase in input prices. Additionally, small firms lack the flexibility of larger firms to quickly abandon unprofitable product lines and purchase state-of-the-art equipment to reduce production and process costs (39:27).

The federal tax system, the area rated as "most important" by the third largest percentage of respondents, is disliked by many small business owners because they perceive the system to be "unnecessarily complex," and because they perceive that the policies benefit large, capital-intensive firms and fail to address the concerns of small, labor-intensive firms (39:28). Some of the policies that small businessmen feel are discriminatory include

"accelerated depreciation, investment tax credit, the LIFO method of calculating depreciation, foreign tax credit, and the tax-free exchange of stock" (39:29). Additional policy concerns of small businessmen, as reported by Bruce G. Fielding, a certified public accountant and small business advocate, include

discriminatory tax rates, severe penalties for unreasonable accumulation of surplus, taxation of paper profits, the costly administrative burden of pension and profit sharing plans and crippling inheritance taxes which can force the sacrifice sale of a healthy business. (39:29-30)

With all of these barriers impeding the success of small businesses, it is perhaps obvious why laws have been drafted to protect and aid them. Small businesses are considered an integral part of our economy; therefore, helping them survive also improves our economy.

Obstacles to Small Businesses Contracting With the Government

Richard Gordon, a Logistics Management Specialist with the Integrated Logistics Support Office at the Tank-Automotive Command, Warren, Michigan, and an individual with over 20 years logistics experience, feels that small businesses have special problems when contracting with the Department of Defense and make the following mistakes because they lack experience:

1. Believing they can take on contracts much greater than their capabilities justify.

2. Costing out projects by a "seat-of the-pants" approach rather than performing accurate estimates.
3. Submitting their bids in order to meet a time requirement before having fully analyzed the contract requirements and their capabilities.
4. Accepting delivery schedules that they will be unable to meet just to receive the contract (19:5).

Additionally, Lieutenant Colonel Jack Hudson notes that small businesses desiring government contracts are faced with four other problems.

1. Many small businesses do not have the accountants, production managers, and other individuals needed to interpret the complicated contract provisions or write a thorough proposal that will be competitive.
2. Immediate outlays of cash for equipment and materials may be required upon acceptance of a contract. Some small businesses do not qualify for SBA loans and are charged high interest rates on bank loans.
3. The average small business manager is a generalist and does not have the experience and knowledge of certain areas critical to success as a defense contractor.
4. Many small businessmen lack the experience in dealing with government contract terminology and lack skill in negotiating contracts (26:3).

All businesses, large and small, have to acquire a certain expertise in contracting with the federal government which is much different than the knowledge required to contract with civilian businesses. But, this problem is even more of a hurdle for small businesses which may lack the personnel, financial resources, and experience necessary to become successful defense contractors. Thus, procurement policies have focused on these shortcomings in order to insure a diversified defense industrial base.

Related Research

Barnaby and Bohannon used information from the Cleveland Defense Contract Administration Service Region (DCASR) to investigate whether or not the preaward survey is an effective indicator of contractor performance. They found no significant difference between contractor delinquency rates for contracts with a negative preaward survey which was overridden by the contracting officer and those with a positive preaward survey (1:50).

In 1979, Davis and Simko analyzed contractor delivery performance and termination for default actions on COC and non-COC contracts from fiscal year 1976 through fiscal year 1978 to determine if the COC program impacted negatively on ALC contracting (5:61-62). They found no statistical difference between late deliveries of contractors with COC and non-COC contracts. However, they found a statistical difference between COC and non-COC contracts in relation to

the number of default proceedings initiated against contractors; four of the COC contracts were terminated for default compared to only one of the non-COC contracts (5:61). They speculated that the absence of a statistical difference in late deliveries could be attributed to external factors such as additional surveillance by the SBA, special monitoring by the contract administrators, or to contract modifications that allowed the contractor to complete the contract within the adjusted time frame (5:62-63).

In Weaver's Masters Thesis on the impact of Public Law 95-89, Small Business Act Amendments of 1977, he reported favorable and unfavorable opinions on the COC program following implementation of the law. The law gave the SBA the authority to declare small businesses responsible with respect to all elements of responsibility and removed the contracting officer's discretion to by-pass the COC program to expedite contract award (50:13).

Those who responded favorably to the COC program did so because it offers a system of checks and balances to insure that the contracting officer is not declaring firms non-responsible in order to award to larger firms. The respondents also noted that an additional benefit of the COC program is that the Government saves the difference in contract price between the bid of the lowest bidder and the bid of the next lowest bidder when the lowest bidder is

certified as competent (50:13). In other words, if the lowest bidder is \$125,000 and the next lowest bidder is \$150,000, the Government saves \$25,000 when the SBA issues a COC to the lowest bidder. Without issuance of the COC, the Government would have awarded the contract to the next lowest bidder and paid a higher price because of the negative preaward survey. In fact, this is the method used by the SBA to compute the amount of Governmental savings generated by the COC program when sealed bidding is the method of procurement (18:51).

Opponents of the Small Business Administration's COC program stated their position that if the results of a PAS are enough to conclusively certify a large firm as non-responsible, they should serve the same purpose when dealing with small businesses. They also related that "from a philosophical and practical standpoint--it [allowing the SBA to conclusively certify the competency of a small firm] is just wrong" (50:13). Additionally, the opponents were concerned that the SBA is dictating what the contracting officer should do; yet, when the contract goes awry, the SBA does not have to address or correct the problems (50:14). The costs associated with correcting problems caused by incapable contractors may well outweigh any savings generated by awarding to the lowest bidder because of a COC issuance.

In a General Accounting Office (GAO) Report of the COC program conducted between July 1985 and February 1986 and published in April 1986, the GAO reviewed:

1. overall COC program statistics,
 2. SBA procedures for determining the capabilities of COC applicants,
 3. the basis for SBA's decisions to issue COCs,
 4. SBA procedures for monitoring COC contractor performance,
 5. contractor performance on COC contracts compared with non-COC contracts, and
 6. contracting officers' views of the COC Program.
- (18:9-10)

Using statistics from the SBA's computerized management information system, the GAO found that the COC program grew at least six times as much in the areas of COC referral, number of COC applications, and number of COC issuances during fiscal year 1985 compared with the average growth rate of the previous four fiscal years. The Director, Office of Industrial Assistance, attributes much of the growth in fiscal year 1985 to a "stricter review of contractors with poor prior performance records and without approved quality assurance systems by DOD's Defense Logistic Agency (DLA)" (18:13). From fiscal year 1981 through fiscal year 1985, the value of COC contracts (those issued because of a COC) was \$1,509,258,000 and the value of direct awards (contracts issued without a COC because the contracting officer concurred with the favorable findings presented by the SBA following a COC referral) was \$92,270,000 (18:14).

The GAO found the SBA procedures for making a determination of responsibility to be consistent with

guidelines established by the Federal Acquisition Regulation (FAR). The SBA, DOD, and General Services Administration procedures are very similar and encompass the same areas of interest (18:21).

The GAO found that approximately 83 percent of the COCs they analyzed from five SBA Regional Offices (Boston, Philadelphia, Atlanta, Dallas, and San Francisco) were awarded as the result of a "change in circumstances" (18:25). These changes resulted from actions by the small business aimed at improving the evaluation of its responsibility, or from factors that were possibly present at the time of the preaward survey yet not recognized by the PAS team (18:25). For example, the time between completion of a preaward survey and the beginning of an SBA plant visit can be several weeks which allows the small business an opportunity to correct problems identified in the preaward survey.

To ascertain the SBA's basis for issuing COCs, the GAO reviewed cases in which the COC referral was the result of a PAS finding of inadequate production capacity, prior poor performance, and/or special circumstances or requirements. In the 18 cases referred to the SBA due to the PAS findings of inadequate production capacity, the GAO noted that the SBA did analyze the possible impact issuing the COC (thus awarding the contract) would have on the timely completion of current and future contracts with the firm (18:27).

The SBA has no formal procedures for considering prior performance in its evaluation; yet, even in the absence of guidelines, it does consider all the factors and mitigating circumstances relating to prior performance when making its determination of responsibility. The SBA will also take into account improvements in the firm's operation and any favorable trends. This practice has led the SBA to award COCs to firms delinquent on past and current contracts--a practice counter to the procedures followed by the DOD for taking into account past performance. The preaward survey team makes a "No Award" recommendation whenever a firm, due to its own fault or other circumstances not due to the fault of the government, has had past delinquencies. Even if the firm has made improvements in its operation it is still given a "No Award" recommendation until it has "satisfactorily" executed one or more contracts following the delinquent contract(s) (18:31). The COC issuance by the SBA gives the firm the opportunity to receive that first contract necessary to demonstrate the skill and competence necessary of a Government contractor.

The GAO found that of the 109 cases referred to the SBA because of poor prior performance, 58 COCs were issued. Fifty of those 58 COCs were issued to firms for the award of contracts by the DOD. The reason for the issuance of 34 out of the 50 COCs for the award of DOD contracts resulted from "philosophical differences between the SBA and DOD" (18:32).

Thus, the SBA and the DOD reviewed the same information; yet, they came to opposing determinations as to the firm's responsibility.

The GAO noted that in the SBA's determination of responsibility, it does take into account any special requirements of the solicitation and/or the procuring agency when those requirements are included as justification for the referral (18:35). The Federal Acquisition Regulation and SBA procedures do not mandate considering special requirements; yet, in all the cases analyzed by the GAO in which special requirements were a factor, the SBA considered them in its determination of responsibility (18:35).

In its review, the GAO identified weaknesses in the SBA's contract monitoring activities when issuance of a COC triggered award of the contract. The reasons for monitoring these contracts are to "1) ascertain whether a firm will need assistance to complete the contract, and 2) determine contract status" (18:37). Initial monitoring of a firm includes an onsite visit which should occur within one month following contract award according to the Director, Office of Industrial Assistance of the SBA (18:38). In many cases, initial contact was made only after the first deliveries were due and in some cases delinquencies had already occurred. In over half the cases contact with the firm was made via telephone (18:38). The SBA attributes the infrequent monitoring activities to a shortage of personnel

caused by the increased number of COC referrals. The SBA answered a need to prioritize COC cases for monitoring by establishing formal procedures in its Certificate of Competency Standard Operating Procedure (SOP 60 04 3) effective 23 June 1986 (18:39).

The GAO surveyed 402 government contracting officers who had previously forwarded at least one COC referral to any one of the five SBA regional offices of interest in the study. The respondents of real concern were those contracting officers who had processed a COC referral for a firm which subsequently applied for the COC. Those respondents who had processed a COC referral for firms which did not apply for the COC were considered to lack experience with the referral program; therefore, they were directed to ignore the remainder of the questions and return the survey. The majority of contracting officers who had experience with the COC program reported similar performance of COC and non-COC contractors with respect to delinquency rates and similar performance with respect to adherence to contract specifications (18:42).

The contracting officers' positive and negative views were nearly balanced as they pertained to the "effectiveness of the COC process" which is defined as the extent to which the COC program issues COCs to small businesses which actually are responsible (18:42). The majority of contracting officers (58%) reported that the COC program was

of great benefit to small businesses while only a minority (14%) reported that it was of "great benefit" to the federal government (18:42-43).

The contracting officers' opinions concerning the SBA monitoring activities indicated weaknesses as did the GAO's own analysis of COC contracts. The majority of contracting officers perceived that sufficient monitoring and follow-up actions were carried out 50 percent of the time or less (18:43).

Through its analysis, the GAO found a correlation between contracting officers' experience with the COC program and their views of the program. They found that "as contracting officers' reported knowledge of the COC process increased and the level of COC activity increased, they tended to be more critical of the COC Program" (18:43). Additionally, increased knowledge correlated positively with a positive view towards the value of the program to the federal government (18:43).

Some of the most frequently reported perceptions of the program solicited in an optional comments block, included:

- COC applications are automatically approved
- SBA is biased in favor of small business,
- SBA awards the COC and then takes no responsibility for contractor performance,
- the COC Program should not be applicable to the small business set-aside program, and
- the COC Program should not apply to contracts below a certain dollar limit. (18:44-45)

The related research pertaining to the COC Program has confined itself to comparing the performance of contractors

awarded COC contracts and those awarded non-COC contracts, and contracting officers perceptions of the program. The authors have found little difference between the performance or perceived performance of these contractors, yet, views toward the program are not extremely positive or negative.

Conclusion

The literature reviewed here emphasizes the importance of adopting legislation and maintaining programs which benefit small businesses, as these businesses are an integral and important part of our economy. Not everyone is in agreement, however, on how best to accomplish this objective.

The COC process allows the small business the ability to "buy time" in order to correct deficiencies identified in the preaward survey--time that it ordinarily would not have if the PAS was the only method of ascertaining the capabilities of small businesses. Air Force contracting officers who are affected by the special requirements imposed by small business programs, such as the COC program, would generally like to see changes; however, when they understand the programs they are better able to recognize their benefits.

III. Methodology

The Small Business Administration (SBA) must notify the contracting officer of its intent to issue a Certificate of Competency (COC) to a contractor prior to doing so. The contracting officer may choose to accept, or appeal the intended issuance of the COC by the SBA. Air Force contracting officers request a formal Air Force appeal of the intended COC issuance through the Office of Small and Disadvantaged Business Utilization (OSDBU) of the Office of the Secretary of the Air Force. One of four outcomes will occur:

1. The contracting officer does not challenge the COC issuance; the COC is issued and the contracting officer must award the contract to that firm.
2. The contracting officer requests a formal Air Force appeal of the COC issuance which is not granted because of weak evidence against the contractor.
3. The contracting officer requests a formal Air Force appeal of the COC issuance which is granted.
However, the SBA decides the evidence against the contractor is not strong enough and issues the COC.
4. The contracting officer requests a formal Air Force appeal of the COC issuance which is granted. The SBA decides not to issue the COC based on the evidence presented.

This research focused on contracts awarded to small businesses by Air Force Logistics Command (AFLC) Air Logistics Center (ALC) contracting officers because a COC was issued by the SBA following an unsuccessful Air Force appeal of the issuance--contracts categorized in outcome "3". As noted in Chapter I, the research objectives were: 1) to determine the quantity of appeals undertaken by the Office of Small and Disadvantaged Business Utilization (SecAF), on behalf of Air Logistics Center contracting officers, which were subsequently lost during the time period from the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985; 2) to determine whether these small businesses had significant problems in carrying out their contractual responsibilities; 3) to determine the impact of contractor encountered problems on the Government; and 4) to assess the areas in which the procedures for determining contractor responsibility used by the Small Business Administration differ from those used by Department of Defense contracting officers.

General Approach

The general approach to answering the research questions began with a visit to the office of Mr. Kennedy, the Small Business Executive for Air Force Logistics Command. Mr. Kennedy provided background information pertaining to the COC program and furnished Air Force small business points of contact within the Air Logistics Centers.

The Quarterly Certificate of Competency Report, RCS: DD-DR&E (Q) 1152, which Mr. Kennedy receives from the ALC small business offices and other AFLC small business offices, and then compiles for forwarding to the OSDBU (SecAF), was reviewed. The report contains the status of COC referrals made to the SBA; that is, whether or not the contractor decided to apply for a COC, whether the referral is pending SBA action, etc. This report was reviewed to gain a better understanding of the COC referral process and of the quantity of COC referrals made by ALC contracting officers.

Major Collins of the Air Force Business Management Research Center at Wright-Patterson AFB, who is currently doing research on the COC program, was also contacted. He offered new insight and assisted in locating additional sources of information.

The next step was to visit the OSDBU of the Office of the Secretary of the Air Force located in the Pentagon. There, COC appeal files were reviewed to ascertain the number of appeals undertaken by the OSDBU for ALC contracting officers during the period from the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985. This five year period was chosen as the information on contractor performance would be readily obtainable; yet, at the same time, the information would most likely be complete and current. After the number of requests for COC appeals was found to be very low, a

decision was made to use a case study format to document the research results.

After research on the contract to be used for the case study had begun, the contractor was terminated for default. Documentation concerning the reasons used by the Air Force for terminating the contract for default was obtained from the AFLC Trial Attorney's office.

Another visit to the OSDBU was undertaken to clarify information obtained from the previous visit and to collect additional information concerning the contract chosen for the case study.

Specific Procedure

COC Quarterly Reports, RCS: DD-DR&E (Q) 1152 covering eight quarters were obtained from Mr. Kennedy's office (AFLC Small Business Executive) and reviewed. The reports contained information relevant to each contractor referred for a COC during the current quarter and those held over from previous quarters because the SBA had not yet made its determination of contractor responsibility. The information available on each included the company's name, item or service to be procured, solicitation number, resultant contract amount (if awarded), the date the referral was made to the SBA, the amount of the contractor's bid, and the final disposition of the case. The use of this data for determining the quantity of COCs issued each quarter was time consuming and difficult because the information

contained under "Final Disposition" was limited and some times left questions as to what really happened.

Conversations with the individual who prepared this report at two ALCs indicated that they could not tell me how many COCs were issued quarterly for contracts awarded by their respective ALCs (25).

Office of Small and Disadvantaged
Business Utilization

The Office of Small and Disadvantaged Business Utilization (OSDBU) of the Secretary of the Air Force proved to be the greatest source of information used in this research. Ms. Claudia Naugle, the Deputy Director of the OSDBU, assisted in locating the necessary information from the COC files. Only one appeal case met the research criteria: 1) the proposed COC issuance was appealed by the OSDBU for an ALC contracting officer; and 2) the SBA felt the evidence against issuing the COC presented by the OSDBU in its formal appeal was not strong enough and issued the COC anyway.

The first visit to the OSDBU was concentrated on obtaining the results of the preaward survey of the contractor which includes the required delivery schedule, number of employees at the contractor's facility, plant capacity, credit (financial capability), and past performance under government contracts. The case study only reviewed the preaward survey areas in which the contractor

received unsatisfactory ratings as information pertaining to the other areas was negligible. The second visit to the OSDBU focused on obtaining correspondence between the contractor and Warner Robins Air Logistics Center (WR-ALC), correspondence between the contractor and the Defense Contract Administration Service (DCAS) office administering the contract, and documentation of the contractor's performance throughout the contract from reports furnished by DCAS and WR-ALC.

The performance of the contractor and problems encountered with the contract were analyzed to determine the cause(s). The presumed causes were then compared with the contractor's weaknesses previously identified in the PAS to determine if there were any similarities between the two.

Trial Attorney

Information obtained from the AFLC Trial Attorney covered the latter part of the contract. The file focused on the actions of the contractor, DCAS, and WR-ALC which led to the termination for default. The information obtained from the trial attorney and the OSDBU was combined to generate a sequence of events in the case study.

Determination of Contractor Responsibility

The Certificate of Competency Standard Operating Procedure used by the SBA and the directives used by DCAS/contracting officer for determining contractor

responsibility were obtained from the SBA Central Office in Washington, DC and the DCAS office in Dayton, Ohio, respectively. The procedures and criteria used on contracts with a dollar value greater than \$25,000 were reviewed in very general terms to determine areas in which they differ in their assessment of contractor responsibility and to assess how these differences could result in opposing determinations of contractor responsibility. The contract value of greater than \$25,000 was chosen because the Federal Acquisition Regulation still exempted small purchases from referral until 31 July 1986 (32).

Data Analysis

Data used to answer the research questions were primarily drawn from written sources. First, the data are presented in Chapters IV and V, and then, the research questions are answered in Chapter VI.

Research Questions

1. How many formal appeal requests of an intended COC issuance were received by the OSDBU from ALC contracting officers? Of those requested by ALC contracting officers, how many appeals were undertaken by the OSDBU? How many appeals undertaken by the OSDBU on behalf of an ALC contracting officer were lost?

2. In cases in which the OSDDBU appealed the COC issuance, but the SBA issued the COC anyway, how was the performance of those contractors? Were deliveries under the contracts late? If so, how late? Were there cost overruns? Did the items meet the required specifications? Did contract defaults result?
3. If the material or service did not meet the required specifications, or if there were delays and/or defaults, did they result in grounding of a weapons system or impairment of combat capability?
4. Did the Government incur any tangible costs due to the fault of the contractor resulting from products or services not meeting specifications, cost overruns, delays in delivery, or default?
5. Are there any differences in the procedures used by Department of Defense contracting officers and by the SBA for determining contractor responsibility which could result in opposing determinations?

IV. Comparison of Procedures Used By the
Small Business Administration and By
Contracting Officers for Determining
Contractor Responsibility

The procedures and criteria used by the Small Business Administration (SBA) and by Department of Defense (DOD) contracting officers for determining contractor responsibility for contracts with a monetary value of greater than \$25,000 are expounded upon below. The procedures used by the two organizations are then compared and contrasted in very general terms.

Procedures Used By the Small Business
Administration for Determining
Contractor Responsibility

The Central and Regional offices of the SBA use the guidelines set forth in the SBA Certificate of Competency Standard Operating Procedure 60 04 3 when determining contractor responsibility. The procedures covered are those used for consideration of a COC issuance when the referral is for one or more of these areas: capacity, financial capability (credit), tenacity and perseverance, and Integrity.

As mentioned in Chapter I, the COC process begins when the contracting officer determines that a small business is not responsible and refers the case to an SBA Regional Office for consideration of a COC issuance. The contracting officer's referral must include all documentation concerning

the area(s) being referred (areas which the PAS or other information deemed unsatisfactory); otherwise, the referral will not be considered "complete". Only a "complete" referral is accepted by the SBA; incomplete referrals will be returned to the contracting officer for additional information before application processing can begin (38:21). Once the SBA receives a complete referral, it has 15 working days, beginning one working day after receipt, in which to make its determination of responsibility. However, the contracting officer and the SBA may agree to a longer time period (38:15).

The minimum documentation required in the referral must include one copy of the solicitation, a letter of referral, and one copy of the below listed information, if relevant to the procurement:

- (1) Preaward survey and supporting papers.
- (2) Contracting officer's determinations and findings.
- (3) Abstract of bids if it is an advertised procurement.
- (4) Specifications.
- (5) Drawings. (The appropriate assembly and other key drawings will suffice.) (38:21)

The contracting officer is also free to submit any additional information pertinent to the case.

The SBA will only evaluate the areas of responsibility; it does not evaluate whether a firm is responsive, that is, whether "the offeror meets the requirements of the solicitation" (38:12). In order to make its determination of responsibility, the SBA will do one or more of the following:

1. Conduct a complete analysis of the contractor's productive facilities when the referral is for capacity (38:30).
2. Conduct a complete financial analysis of the firm when the reason for the referral is for unsatisfactory financial capability (38:33).
3. Visit the contractor's plant or meet with representatives of the firm at the regional or district office when the referral is for unsatisfactory tenacity and perseverance, and/or integrity only (38:37,39).

If the referral is for capacity only a limited analysis of credit should be conducted and vice versa (38:30,33).

The SBA is responsible for informing the small business of its right to apply for a COC, the procedures to be followed when filing for a COC, and the area(s) the SBA will be surveying when making its determination of responsibility (38:23). If the firm decides to apply for a COC it must then complete an SBA Form 74, "Application for Certificate of Competency," and an SBA Form 355, "Application for Small Business Size Determination," before processing of the referral can begin. If, after reviewing the completed SBA Form 355, the SBA determines that the small firm does not qualify as a small business because of its size, the firm may appeal the determination to the Office of Hearings and Appeals (38:29).

Determination of Capacity

The SBA defines capacity as the "overall capability of a prospective small business contractor to meet the quality, quantity, and time requirements of a proposed contract, plus other commitments" (38:10). The SBA's Industrial Specialist conducts an onsite survey of the firm's facilities to ascertain its productive capacity. During the plant visit, the Industrial Specialist 1) surveys the available equipment, inventory and facilities, and 2) gauges the workers' skills and the expertise of the contractor's managerial staff. The Industrial Specialist reviews, with the firm, the requirements of the contract, production plans, and any plans by the firm to procure additional supplies, personnel, equipment, and services of contractors. Additionally, the SBA requires the Industrial Specialist to review "all other factors important to the successful completion of the contract" (38:30). The results of the plant survey are documented on an SBA Form 183, "SBA Plant Survey" (38:31).

In addition to the information obtained during the site visit, the Industrial Specialist must gather other facts concerning the procurement and the firm, and include all of the information on the SBA Form 183 or as attachments. The information includes:

1. Detailed requirements of the contract.

2. Whether the procurement involves set-aside quantities and, if so, the quantity of the set-aside and the quantity of the referral. Set-asides, in this case, are contracts reserved specifically for contracting with small business. It may be possible for a small business to receive a contract for a portion of the quantity required if it is not capable of producing the total amount.
3. Amount and nature of any bonds required and any penalty clauses for failure to satisfy the requirements of the contract.
4. Performance of the contractor on its primary civilian and Government contracts or performance on only its most recent contracts, when the quantity of past contracts dictates doing so.
5. Names of major and alternate suppliers, and their credit terms. The availability of all items and services with long lead times and/or those critical to the successful completion of the contract should be confirmed with the supplier.
6. Work-in-progress and future work to be undertaken by the contractor during the same time frame as the proposed contract. The monetary value of work yet to be completed on any current contracts must be listed. If necessary for a thorough review, plant load charts and the contractor's scheduling plan

for the proposed contract should be included as attachments to the SBA Form 183.

7. Inspection reports or plant surveys of subcontractors and/or joint contractors, when required. These reports may be required of firms doing a major or critical portion of the work in the proposed contract and are included as attachments to the SBA Form 183. Additionally, agreements between the contractor and subcontractor must accompany the plant survey.
8. Photographs of the contractor's operation--if useful as an aid for determining the contractor's capacity (38:31-33).

Determination of Financial Competency

Credit, which is synonymous with financial competency refers to the "financial capability of a prospective small business contractor to perform a contract, plus other commitments" (38:10). An SBA Loan Officer is assigned to the COC case to ascertain the contractor's financial status and to make a recommendation as to its financial capability. The Loan Officer may visit the applicant's facility to gather financial data concerning the value of the firm's inventory of raw materials, work-in-progress, and finished products. Additionally, the Loan Officer will review cash flow sheets for the proposed contract and for all contracts of the firm, and will order a Commercial Credit Report of the firm, if needed (38:34).

The Loan Officer must know the method by which the contractor intends to finance the contract. The Loan Officer should determine the firm's eligibility for advance payments, Government financing, and/or SBA financing. If the firm is eligible and has applied for one of these sources of financing, the Loan Officer needs to determine the status, i.e. possible approval/denial, of the firm's application. A COC most likely will not be issued if the firm is unable to acquire the needed level of credit. Firms using an outside source for financing the contract must furnish the SBA with a letter from the lender outlining the terms of the proposed financing agreement(38:34).

The Loan Officer's report should include a valuation of the contractor's assets and liabilities--current or those possibly incurred because of pending claims and any other financial obligation of the contractor which could affect its ability to finance the proposed contract. Additionally, the Loan Officer should make a positive or negative recommendation for the award of an SBA loan to the contractor for the contract period (38:35).

Determination of Tenacity
and Perseverance

Tenacity and perseverance, as defined in the SBA's Certificate of Competency Standard Operating Procedure, refers to "those qualities of persistence and steadfast pursuit of an undertaking with the aim of doing an

acceptable job" (38:10). In a referral for tenacity and perseverance, the contracting officer's case must be thorough and well-documented. The contracting officer must introduce the specific evidence which led to the determination of nonresponsibility and must prove that the reasons for nonresponsibility were not the result of deficiencies in the contractor's capacity and/or credit (38:35). It is the responsibility of the contracting officer to show that the "contractor did not diligently or aggressively take whatever action was reasonably necessary to resolve its problems" (38:36).

The SBA Industrial Specialist must then visit the firm to gather any relevant information and to hear the company's explanation of circumstances causing the delinquencies or unfavorable allegations against the company. Agencies or individuals which the Industrial Specialist should contact for additional information are the contract administration office, Government inspectors, or other individuals knowledgeable about the firm's operations, and the firm's customers--to the extent feasible. Also, the Industrial Specialist may find it useful to order a Commercial Credit Report of the firm. Using this information, the Industrial Specialist formulates a report which summarizes the information, challenges the findings of the preaward survey, and recommends whether a COC should be issued to the firm (38:37).

Determination of Integrity

Integrity is recognized as "uprightness of character and soundness of moral principle, honesty, probity," and "moral soundness, freedom from corrupting influence or practice" (38:10). It is the obligation of the contracting officer to furnish some information which can be disclosed to the applicant and which gives the "substance" behind the determination that the firm lacks integrity (38:38). If the Industrial Specialist believes that the information is not substantial, the contracting officer will be asked to furnish more evidence.

The Industrial Specialist and the Regional Counsel shall analyze the documentation accompanying the contracting officer's referral to judge whether:

1. The contracting officer has adequately supported the finding of lack of integrity.
2. The documentation is thorough. Copies of investigative reports or a summary of the findings should be included.
3. The evidence is based on recent incidents. As a general rule, actions occurring more than 18 months ago are not to be considered timely. However, special attention should be given to incidents which are "continuing in nature, characteristic of [the] firm's activities or part of a pattern or

otherwise pertinent to the issue of the firm's present responsibility" (38:38).

4. The allegations raised by the contracting officer are directly supported by the documentation i.e. whether the evidence leads to the conclusions (38:38-39).

If the firm states that it intends to file for a COC, the Industrial Specialist shall inform the SBA Central Office and the contracting officer of the firm's intent. Additionally, the Office of the Inspector General (IG) at the SBA's Central Office should be queried as to whether its files contain any information about the firm (38:39-40).

In addition to submitting completed SBA Forms 74 and 355, the small business must also complete an SBA Form 912, "Statement of Personal History" before processing of the application can begin. The Industrial Specialist may schedule a meeting with the contractor at a regional or district office in lieu of conducting a plant survey when the referral is for integrity only (38:40).

After all the necessary information has been acquired, the Industrial Specialist must compile a written report. The report should include the results of any discussions with the firm, the firm's customers, the Defense Contract Administration Service (DCAS), the resident inspector, and any information obtained from the U.S. Attorney General, the FBI or other law enforcement agencies. The report should

also include the results of the SBA's IG review (38:40-41). As with the narrative accompanying tenacity and perseverance cases, the Industrial Specialist summarizes the findings, specifically addresses the information forwarded by the contracting officer, and recommends either issuance or denial of a COC (38:40).

Additionally, the Regional Counsel must compile a report which addresses the legal sufficiency of the supporting documentation and also addresses the potential impact of court actions, documents or current investigations of the firm. The Regional Counsel must summarize the findings and recommend to issue or deny the COC (38:41).

Certificate of Competency Review Committee

As mentioned in Chapter I, the SBA Regional Administrator has the authority to issue COCs for contracts valued up to \$500,000. (That ceiling was temporarily increased to \$5 million.) In order to make a determination of responsibility, the Regional Administrator will review the recommendations of the COC Review Committee. The Review Committee is chaired by the Assistant Regional Administrator for Regional Programs or a GS-14 designee. Other members of the committee appointed by the Regional Administrator include the following individuals or their designees:

1. A COC Industrial Specialist familiar with the aspects of the case. It is preferred that the

individual who conducted the survey of the contractor fill this position.

2. Senior Regional Financing Officer. The Regional Administrator will decide if the position of financial officer needs to be filled in cases referred for tenacity and perseverance, and/or integrity.

3. Regional Counsel (12:19).

The Regional SBA Offices are required to notify the Associate Administrator for Procurement Assistance at the SBA Central Office prior to issuing a COC when one or more of the following circumstances prevail:

- (1) The applicant is currently operating under one or more COCs and is behind schedule on one or more of the certified contracts, or has a consistent history of delinquency on past certified contracts.
- (2) The procurement is for food, drugs, pharmaceuticals, medical chemicals, biologicals, items taken or used internally or applied to the skin, or items required to be sterile.
- (3) The procurement is for research and development or involves talent and creative ability.
- (4) Cases referred for elements of integrity. (12:14)

The Central Office may want to review the case and to decide whether to award the COC.

Procedures Used By Contracting Officers
for Determining Contractor Responsibility

When determining contractor responsibility, one source of information the contracting officer utilizes is the

preaward survey (PAS) results. Four other sources of information about the contractor will be discussed later. Defense Contract Administration Service (DCAS) offices under the Defense Logistics Agency perform the PAS for contracting officers at the Air Force Logistics Command Air Logistics Centers, Air Force Systems Command contracting offices, base level contracting offices, and any other DOD agency with procurement responsibilities. When conducting preaward surveys DCAS follows the procedures and criteria set forth in the Federal Acquisition Regulation (FAR), and the Defense Logistic Agency Manuals 8300.1, Production Manual for Contract Administration Services, and 8200.2, Procurement Quality Assurance Support Manual for Defense Contract Administration Services.

DCAS will conduct an onsite survey of the firm when there is not enough information available to make an "Award" recommendation based on a desk survey (9:6). "No Award" recommendations based on a desk survey may be scrutinized heavily (9:7).

When requesting DCAS to conduct a PAS, the contracting officer may specify as many as five major factors and seven other factors to be covered by the survey. The five major factors are: technical capability, production capability, quality assurance capability, financial capability, and accounting system. The seven other factors are: government property control, transportation, packaging, security

clearance, plant safety, environmental/energy considerations, and other (9:11-14). Following is a discussion of the major factors, other factors, and areas of interest applicable to each of them (9:11).

Technical Capability

When ascertaining a firm's technical capability, Major Factor A, DCAS considers the amount of experience and technical knowledge the firm's key management possess as well as the their ability to understand the tasks and resources needed to provide the solicited product or service. If not currently at the work facility, personnel with key skills and qualifications must be immediately attainable upon contract award (9:11).

It is crucial that the contractor be able to interpret the drawings, specifications, and other contents of the technical package. If knowledge in the application of specialized techniques such as the use of special tools, test equipment etc. is required, the contractor must possess this knowledge (9:11).

Production Capability

An assessment of a firm's production capability, Major Factor B, is an "evaluation of the offeror's ability to plan, control and integrate manpower, facilities and other resources necessary for successful contract completion" (9:11). This review entails evaluating:

1. The production processes which will be used to produce the item.
2. The level of experience the contractor has with similar or like items--the quantity produced, the time frame in which the product was produced, the plant in which the product was produced, and the timeliness and quality of the product.
3. The contractor's management of its production capability.
4. The plant's capabilities--the compatibility of its layout, production processes, and techniques with the requirements of the contract.
5. The adequacy of the contractor's production plan--the inclusion of realistic lead times and functions required to process, order, and receipt for materials.
6. Other operations required of the contractor. This may include the firm's capability to subcontract, to use in-house machinery, to assemble, to paint, to inspect etc.
7. The contractor's ability to plan ahead and to schedule completion of the operations necessary to satisfy the contractual requirements.
8. The plant load, that is, current and future contracts of the firm which will be progressing during the same time as the proposed contract. If

the current and future plant load, including the additional workload that would be added by the proposed contract, prohibits the contractor from being able to meet the delivery schedule, yet, it can produce the product, an alternate delivery schedule may be formulated and included in the PAS, when requested by the contracting officer (9:11).

Plant Facilities and Equipment. Under this sub-area, the DCAS Production Representative considers whether the contractor's facilities and equipment will enable it to meet the delivery schedule. If the contractor lacks the necessary facilities and equipment but intends to obtain the additional capital necessary, the purchase plans must be reviewed (9:12).

If awarded the contract, the facility which the contractor intends to use must meet two major requirements. First, the facility must provide sufficient space to accommodate administrative, engineering, laboratory, manufacturing, inspection, and storage areas. Secondly, it must have sources which can provide the heat, light, water, and power levels necessary to support the plant's workload. The proposed facility may be leased; however, the lease must include the contract's completion time frame. The Production Representative must insure that any requirements to rearrange the facility have been incorporated into the production lead time. Additionally, the financial analyst

should be notified of any major expenditures necessary to bring the facility up to the standards required by the contract (9:12).

Purchasing Procedures. An analysis of a contractor's purchasing procedures is accomplished to insure that the contractor is capable of identifying future resource material needs and is capable of placing orders for those resources so that they arrive prior to being needed. The capability to place orders for materials must encompass vendor and subcontractor selection and follow-up procedures (9:12).

The contractor's purchasing plan is also reviewed to insure that the contractor has confirmed resource delivery dates with suppliers and to insure that those delivery dates enable the contractor to meet the contract delivery schedule. Additionally, the Production Representative will verify the delivery dates of materials critical to the timely completion of the contract with the suppliers. In the PAS, the administrative contracting officer will provide a narrative which covers the contractor's ability to obtain long lead time items or "pacing" items--those which determine the rate of the production operation (9:12).

Labor Resources. The purpose of a labor resource review is to compare the technical skills and managerial expertise in the company with the requirements of the contract. The number of skilled production, unskilled

production, engineering, and administrative personnel currently employed by the firm and the additional number required to perform the contract would be annotated. If required, the contractor's ability to train new or current personnel should be ascertained. The training plan should be "time phased" (9:12).

The qualifications of key personnel should be determined by reviewing resumes or other sources detailing their experience, background, and qualifications relevant for successful contract completion. The contractor's performance on its production of similar or like items should be obtained to confirm the technical and managerial expertise of key personnel. The Production Representative should query the buying office to obtain any information pertaining to the contractor's technical and managerial competence as well as any unfavorable information on management's integrity. Coordination with the DCASR Council is necessary when unfavorable information on the contractor is found (9:12).

Delivery Performance Record. In the Defense Logistics Agency Manual 8300.1, past performance is defined as "an evaluation of the offeror's overall past performance, tempered by consideration of current performance, with added weight being given to performance on items like or similar to the bid item" (9:13). The Production Representative uses a combination of "professional judgment" and statistical

analysis to evaluate the contractor's delivery performance record. Information needed to perform the statistical analysis includes: the contractor's current performance, the number of current contracts with the contractor, the status of current contracts in relation to the original delivery schedule, the number of delinquencies, the total number of days delinquent, the cause(s) and fault for the delays, and the expected recovery date of the contractor (9:13).

Factors considered when measuring performance on contracts for same or similar items encompass the contractor's level of experience, past performance, and current performance on contracts for same or similar items. The contractor's performance on completed contracts is measured by the number of contracts delinquent at least once during the contract, the number of contracts delinquent when completed, and the number of days delinquent. The responsibility for and causes of the delinquencies are also considered in the determination of past performance. Contractor delivery performance on commercial contracts for same or similar items will be considered when the contractor has only a small amount of Government contract experience (9:13).

Other Considerations. When assessing contractor delivery performance, actual performance should be compared to the original delivery schedule. Delivery schedule

adjustments are included only when the delays are caused by the Government. The review of delivery delays should incorporate the number of days delinquent and number of items delinquent and "root causes of the delinquencies" (9:13). A "No Award" recommendation will be made when at least one of the four conditions occurs: 1) a prospective contractor has consistently failed to provide a quality product or service within the required delivery schedule as the result of its own fault, 2) a previous contract of the firm was terminated for default, 3) the contractor has not yet obtained the resources and facilities necessary for the proposed contract, or 4) the contractor has failed to obtain the required resources and facilities in past contracts (9:13).

Other areas of contractor performance not covered in the PAS may be included in this area. An example of an item to be included is the "excessive" need of the Government to exercise contract warranty provisions (9:14).

Quality Assurance

The depth of the Quality Assurance Representative's (QAR) review of the prospective contractor's quality assurance program, Major Factor C, depends upon the contractor's level of experience with same or similar items, its experience as a Government contractor, and its experience with the specifications required of the contract (8:5-4). The QAR must discuss with the contractor the

following areas to insure that the workers actually comprehend the elements of the solicitation:

1. Exhibits. These may consist of a Contract Data Requirements List or a spare parts list generated from the contractor's line item numbering system (8:5-4).
2. Technical Data. The prospective contractor should be able to demonstrate specific knowledge of specifications, operating instructions, maintenance manuals etc. which provide procedures and standards to which the contractor must adhere. As stated in the DLAM 8200.2, "The prospective contractor must be able to relate to you [the QAR] some of the specific requirements relative to producing the item and controlling the quality" (8:5-4).
3. Drawings. The drawings included in the solicitation data package, received by the contractor prior to submitting its bid or proposal, should be discussed with the contractor. A representative sample of drawings may be used when the quantity of drawings is too numerous to review (8:5-5).
4. Specifications. The use of a specification normally refers to "a description of the technical requirements for a material, product, or service that includes the criteria for determining whether

these requirements are met" (10:10-1). However, for this purpose, specifications refer to all technical and quality control requirements contained in the specification. If the contractor has had experience with the same specifications, the discussion may be kept to a minimum. A sample of specifications may be reviewed when the quantity of specifications makes it prohibitive to review each and every one of them (8:5-5).

5. Approval requirements. Approval requirements refer to the tasks necessary to receive approval of engineering changes, preproduction samples, first articles, etc. and the time frames in which they must be submitted (8:5-5).
6. Preservation, packaging, packing and marking requirements. The QAR's review will encompass MIL standards applicable to these tasks and will confine itself to the quality control functions (inspections and testing) required of the contractor (8:5-5).

The QAR should refer to unsatisfactory material reports and quality control inspection records maintained on other Government contracts with the firm (8:5-5). For firms without any recent Government contracts or none at all, the QAR can use the contractor's performance on its commercial contracts as an indicator of its capabilities. The Defense

Logistics Agency Manual 8200.2 asserts that "The number and method of processing customer returns should provide an indication of quality" (8:5-6). Another indication of a contractor's quality control program would be its production records.

The QAR needs to be aware of the requirements of the solicitation pertaining to the use of used, reconditioned, or surplus material by the contractor. In cases in which this type of material is allowed, the QAR must be able to determine that the material is indeed serviceable and that it meets the requirements of the solicitation (8:5-6).

The QAR should annotate any needs of the contractor for engineering, inspection, or other assistance to be provided by the Government in its own interest. The QAR should review prior preaward surveys to ascertain whether the contractor honored its commitments to correct discrepancies, to obtain additional equipment, obtain additional personnel, or any other prior commitments. A determination by the QAR that the prospective contractor has neglected to follow through with its commitments may form the basis for a "No Award" recommendation (8:5-6).

The QAR should note the contractor's plan for hiring additional quality control, inspection, and/or test personnel. Additionally, the ratio of inspection personnel to production personnel should be recorded. This ratio represents the number of production personnel for each

quality control person working at the prospective contractor's facility. The QAR will evaluate the adequacy of this ratio as it pertains to the requirements of the solicitation and include the evaluation in the narrative portion of the report (8:5-6).

The QAR must assess whether the contractor has use of specific inspection and test equipment (for first article and production) to perform the entire contract. If the contractor lacks the required equipment, the QAR must determine the sufficiency of the contractor's plans to obtain the equipment. The plans must comprise binding commitments which become effective no later than the date of contract award (8:5-6,5-7).

Utilizing appropriate MIL standards as guideposts, the QAR must determine the contractor's ability to calibrate test equipment. The QAR will make a "No Award" recommendation when the contractor has not established the quality assurance program required by the solicitation. However, the QAR must report the contractor's progress towards establishing an acceptable quality assurance program and the additional actions proposed by the contractor to demonstrate its capability to put the program in use at the time of contract award. In this context, "demonstrate" stipulates that the prospective contractor must have "the required written quality control procedures" and that "it must have the necessary inspection/test equipment or a firm commitment to obtain these by production start..." (8:5-7).

The QAR must determine the contractor's control of specifications, drawings, changes and modifications, and work/process instructions such that old procedures are replaced by new procedures. An examination of the contractor's engineering, production control, testing, assembly, and purchasing functions would enable the QAR to note the omission of updated requirements (8:5-7).

The contractor's organizational structure must be examined to evaluate the ability of the quality control structure to function provided that other departments cooperate and do not interfere with its operations (8:5-7).

The QAR will evaluate the contractor's system of examining specifications in order to judge what will be tested. The plant's layout and plans for placing in-process and final inspection stations may be reviewed to determine their adequacy (8:5-7,5-8). The QAR must also evaluate the following contractor control systems:

1. Evaluation, selection and quality control of subcontractor and vendor furnished materials. Surveys of a contractor's prospective subcontractors and vendors may be undertaken. Additionally, the QAR will verify that sources of supply mandated by the solicitation are utilized.
2. Material control processes to identify, segregate, maintain, preserve and correct defects. A few of

the locations to be checked include inspection areas, holding areas, and rework/scrap areas.

3. Procedures used to receipt for, inspect, and verify quantities of Government property received by the firm and other processes relevant to handling Government property.
4. Inprocess inspections including, but not limited to, such areas as handling of tools and gauges, special production processes, deficient material, and sufficiency of inspection procedures.
5. Plan for inspecting items such that it identifies as well as leads to the correction and prevention of defective processes. The contractor's inspection plan must provide for first item inspection and periodic inspections thereafter.
6. Procedures for preserving, packaging, packing and marking items. Included under this category may be the contractor's controls to insure that items are correctly labeled and that packaging code requirements are understood by the contractor.
7. Adequacy, accuracy, level of detail, and traceability of quality control records. The system must provide for documentation of test and inspection results and feedback to enable modification of processes responsible for producing defective material or recalibration of faulty test

equipment. The contractor should include all the descriptive data relating to the tests performed and results obtained, and should review the records periodically.

8. Investigation and resolution of customer complaints.
9. Adequacy of testing procedures for determining the reliability and/or maintainability of items. An evaluation of the test equipment, ability to control environmental conditions, and similar tests previously conducted by the contractor should be accomplished (8:5-8).

A "No Award" recommendation will be made when one or more of the following conditions exist:

- (1) Inadequacy of equipment or personnel to assure compliance with the specified quality requirements and unwillingness or inability of obtaining the required additional equipment or personnel in time for start of production.
- (2) Consistently poor quality history.
- (3) Persistent failure to correct quality system/program deficiencies reported by the QAR on recent or current contracts.
- (4) Deficiencies exist and on previous contracts the prospective contractor failed to correct deficiencies which it had proposed to correct during a previous survey.
- (5) There is a persistent pattern of need for costly Government assistance (such as engineering, inspection, or testing) to the prospective contractor, provided in the Government's interest beyond normal contractual requirements, and caused by the prospective contractor's poor quality performance.

- (6) There is a quality system requirement and the prospective contractor does not have an acceptable system/program in place and ready for production.
(8:5-9)

Financial Capability

Judging a prospective contractor's financial capability, Major Factor D, involves "a determination that the offeror has adequate financial resources or access to them, to acquire needed facilities, equipment, materials, etc." (9:14). A Cost Analyst will determine whether the contractor has the financial resources necessary to finance the contract. If this review infers inadequate financial capability, an in-depth cash flow plan may be requested of the contractor (9:14).

Accounting System

The Defense Contract Audit Agency (DCAA) surveys the contractor's accounting system, Major Factor E, on behalf of the DCAS. An assessment of a firm's accounting system may be necessary when the contract involves progress payments (percentage paid to the contractor based on the percentage of work completed) or when the contract is cost plus a fixed fee or a cost incentive type contract (9:14). A review of a contractor's accounting system which is less than one year old may still be valid and negate the requirement to perform a new review (9:14).

Other Factors

Government Property Control. The Industrial Property Management Specialist is responsible for reviewing the "prospective contractor's ability to manage and control Government property," Other Factor A (9:14). The FAR requires contractors accountable for Government owned property to report the total replacement cost of the Government owned property in its possession and the possession of its subcontractors (10:45-17).

Transportation. Transportation, Other Factor B, is a measure of the prospective contractor's ability to adhere to transportation laws and regulations pertaining to the transportation of Government material, oversized material, hazardous cargo, etc (9:14).

Packaging. The contractor's ability to preserve, package, mark, and combine into unit packs items for transporting to the Government is checked under this factor, Other Factor C (9:14-15).

Security Clearance. The Office of Industrial Security of the Defense Investigation Service surveys the contractor's security clearance, Other Factor D, on behalf of the DCAS. The purpose of the investigation is to insure that the contractor's facility possesses a current security clearance level compatible with the level required by the nature of the contract work. If this factor is judged unsatisfactory, a "No Award" recommendation must be made.

The procuring contracting officer (PCO) must be notified when the determination that a contractor's security clearance is unsatisfactory based upon the contractor's lack of a security clearance, the lack of a security clearance high enough, or the failure of the contractor to correct major deficiencies identified during the previous security inspection (9:15).

Plant Safety. This factor, Other Factor E, is examined to determine the contractor's ability to meet all safety standards and requirements outlined in the proposed contract. These may include Air Force Occupational Safety and Health Standards as well as Fire Safety Standards (9:15).

Environmental/Energy Considerations. The determination of the contractor's adherence to environmental/energy considerations, Other Factor F, is based only on compliance with environmental/energy requirements in the solicitation. The FAR requires the Clean Air and Water Clause implementing the Clean Air Act and the Clean Water Act to be inserted in all contracts valued at \$100,000 or greater (9:15).

Other. This category, Other Factor G, includes areas, not covered by any other factor, which the contracting officer wants reviewed. The eligibility of the contractor under the Walsh-Healey Public Contracts Act is an example of a topic covered by this factor (9:15).

Preaward Survey Results

The preaward survey results are forwarded to the Preaward Survey Review Board (PASRB) for its determination of contractor responsibility and simultaneous recommendation of whether to award the contract to the firm. As a minimum, membership on the PASRB should include a Chairman and three other members with expertise in Production, Quality Assurance, and Financial Analysis. The production member of the PASRB should not be the same person who performed the supervisory review of the PAS (9:1). The complete PASRB shall review PAS results under the following conditions:

- (1) Negative PASs.
- (2) Surveys involving congressional interest--actual or potential.
- (3) Surveys where unresolved conflicts exist between survey team members.
- (4) When a sensitive or critical program is involved.
- (5) Surveys which include borderline capability in any area.
- (6) Complex surveys (PDM, weapon system).
- (7) Surveys where PCO contractor intelligence reflects poor performance, but the survey result appears affirmative.
- (8) Surveys where successful performance is largely dependent on the offeror's planned action.
- (9) On surveys tentatively judged affirmative although the last survey on the same contractor was negative.
- (10) When adequate working capital is not readily apparent.
- (11) Any other survey deemed appropriate by the PASM.
(9:15)

The review board forwards its recommendation to the Preaward Survey Monitor (PASM) who also reviews the survey and the PASRB's recommendation, and recommends "Award" or "No Award". If the PASM does not concur with the

conclusions of the PASRB, the PAS is elevated to the DCAS Commander for a final determination (9:16).

The PASM forwards the PAS, the recommendation, and a narrative which outlines the capabilities of the contractor as they pertain to its ability to satisfactorily perform the proposed contract. If any of the factor evaluations within the PAS appear contradictory, the PASM will use a narrative to explain the reason(s) for these contradictions (9:16).

When evaluating contractor responsibility, the contracting officer should not limit the information obtained on the contractor to the preaward survey results but should also refer to four other sources readily available. One source, the Consolidated List of Debarred, Suspended, or Ineligible Contractors, should be reviewed to insure that the prospective contractor is eligible to receive a Government contract. Other possible sources are contractor performance records, or information from people working within the same contracting office, audit agencies, and other contract administration offices who have dealt with the contractor. Additionally, the contracting officer can learn a lot about the contractor from reviewing its proposal and bid submittals, replies to questionnaires administered by the contracting officer, and current data on the firm's financial status, equipment, and personnel. Finally, the contracting officer may also query banks, customers of the contractor, financial institutions, other

Government agencies, and business/trade associations and publications (10:9-3).

General Analysis

The SBA uses the term capacity to encompass the areas of production capability, technical capability, and quality assurance used by the contracting officer. The most notable difference in these areas is in the assessment of quality assurance capability. When assessing a firm's quality assurance capability in the PAS, the DCAS takes a much more in-depth look into the management and actual operation of that function. The ability of the contractor to plan and organize the activities of the quality assurance department is recognized as paramount to insuring that only supplies or services meeting standards are delivered. The SBA's procedures fail to place the strong emphasis on quality desired by the contracting officer.

Under the area of capacity, the SBA does place a strong emphasis on the current and future work load of the plant in assessing the contractor's ability to meet the required delivery schedule. Its coverage of the technical capability of workers and expertise of management personnel appears adequate. Both the SBA and the DCAS procedures stress discussing the requirements of the contract to gauge the contractor's knowledge and experience.

When analyzing prior performance, the SBA judges adherence to the adjusted delivery schedule rather than the

original delivery schedule as is done by DOD contracting officers (18:31). In their research, Barnaby and Bohannon found that Administrative Contracting Officers (ACOs) often extend contractor delivery dates to remove the contract from delinquent status, thus reducing the quantity of delinquent contracts which the ACO must oversee (1:60). Therefore, the SBA's procedures combined with the ACO's practice of administratively reducing the number of delinquent contracts creates a situation which is too lenient and overly favors the contractor.

Throughout the FAR and Defense Logistics Agency manuals, tenacity and perseverance, and integrity are not treated as separate categories but are an integral part in the determination of a contractor's past performance and eligibility as a Government contractor (i.e. not debarred, suspended, or ineligible). On the other hand, the SBA has specific guidelines for determining contractor responsibility within those two areas--guidelines which direct the SBA Industrial Specialist to refute the negative points in the contracting officer's referral. Yet, if the contracting officer's procedures are not well-defined, it may be difficult to substantiate a case for denying the contract on the grounds of tenacity and perseverance, and/or integrity.

Another major factor which DCAS surveys for the contracting officer includes the contractor's accounting

system while other factors it surveys include government property control, transportation, packaging, security clearance, plant safety, environmental/energy considerations, and any other areas requested. Under the COC procedures, these areas may be embedded under the category of "all other factors important to the successful completion of the contract" but no mention is made of what comprises these "other factors" (38:30). The SBA is left to rely on the experience and competence of its survey staff.

V. Case Study: Mancro Aircraft Company

During the period from the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985, only six formal appeals of an intended Certificate of Competency (COC) issuance were requested by Air Logistics Center (ALC) contracting officers. Those six appeal requests are a small percentage of the approximately 120 contracts awarded annually, or the approximately 600 awarded over the five year period, by ALC contracting officers because of a COC issuance by the Small Business Administration (SBA).

One of the three formal appeals requested by Oklahoma City ALC was granted and won; in another case the SBA did not issue a COC for other reasons; and in the remaining case, the Office of Small and Disadvantaged Business Utilization (OSDBU) felt it did not have substantial information to justify an appeal. The remaining three of the six appeals from the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985 were requested by contracting officers at Warner Robins ALC (WR-ALC). In two out of three appeals requested by WR-ALC, the OSDBU decided there was insufficient justification for an appeal and, in the third case, an appeal was pursued but lost.

The contract awarded by Warner Robins ALC, for which the Air Force lost its appeal of the COC issuance, forms the basis for the case study used in this research. The case history is presented in the remainder of this chapter.

Background

In July 1981, HQ USAF/LEY/XOO determined that all C-141B aircraft should be painted in the European One camouflage paint pattern before the end of fiscal year 1986. Because of other aircraft painting requirements, the Air Force lacked the organic (in-house) capability to complete the work within the required time frame so inorganic (personnel outside the Air Force) accomplishment of the work was deemed necessary (40).

On 17 June 1982, Warner Robins Air Logistics Center issued a Request for Proposal (RFP) for the receipt, handling, and camouflage painting of 77 C-141B aircraft (40). The work would be accomplished under a one-year basic contract for 18 aircraft in fiscal year 1983 and, if exercised, three one-year follow-on options for 26, 26, and 7 aircraft, respectively. Each aircraft would be either sand scuffed and oversprayed or chemically stripped and repainted--a decision that would be made by a Government representative based on the condition of the aircraft's exterior (40).

Some of the critical parameters of the solicitation included requirements that: 1) the paint facility be environmentally controlled, 2) the contractor have recent experience in painting aircraft similar in size to the C-141B and similar in quantity of aircraft to be painted, and that 3) the contractor take possession of the first

aircraft 18 days after contract award and complete the first aircraft and all subsequent aircraft in 20 work days beginning with the work day after aircraft arrival to the paint facility (35;40).

The RFP mandated that the contractors' proposals be submitted in two separate volumes. Each firm's technical proposal, the contractor's method for accomplishing the contract, comprised one volume and would be evaluated first to determine whether the offeror responded to the requirements of the solicitation, and to determine whether the proposed method was feasible. If the technical proposal satisfied both conditions the price proposal, the second package, would be evaluated. Together, the packages of all the offerors would be analyzed to select the proposal most advantageous to the Government and award would be made to that offeror. Initially, proposals were required to be submitted by 19 July 1982; however, additional time was needed by Warner Robins ALC personnel to answer questions posed in the pre-proposal conference so the due date for proposals was moved to 20 August 1982 (34).

Five companies submitted proposals for the contract. Four of the five proposals met the requirements of the solicitation and were technically feasible. Price negotiations were completed on 29 November 1982. Mancro Aircraft Company was the lowest offeror with a proposal of \$3,573,343; the next lowest offeror submitted a proposal of \$4,319,506--a difference of \$746,163 (31;34).

Mancro Aircraft Company, headquartered in Paramount, California, had been a Government contractor for the past twenty years. The paint facility Mancro intended to lease for the contract was an abandoned Air Force hangar located in the city of Ardmore, Oklahoma (34).

The actions that led to the contract award and subsequent termination for default of Mancro Aircraft Company are recounted in the remainder of this chapter. An analysis of those actions follows.

Preaward Survey

The contracting officer requested a preaward survey (PAS) of Mancro be conducted as Mancro did not appear to have any experience in the aircraft maintenance and modification area. Its previous Government contracts were for manufacturing spare parts and components (34). The Defense Contract Administration Services Management Area (DCASMA) in Inglewood, California surveyed the financial capability and accounting system of Mancro. The areas of technical capability, production capability, plant facilities and equipment, purchasing and subcontracting, quality assurance, plant safety, labor resources and the ability to meet the required schedule were surveyed by the DCASMA office in Dallas (40).

Representatives from DCASMA-Dallas visited Mancro's proposed work facility for a preaward survey (PAS) from 14 through 16 December 1982. The Preaward Survey Team gave

Mancro unsatisfactory ratings in these areas: technical capability, production capability, plant facilities and equipment, purchasing and subcontracting, plant safety, labor resources, performance record, and ability to meet required schedule. Mancro's quality assurance capability, financial capability, and accounting system were rated satisfactory (40;2). A discussion of the preaward survey areas in which Mancro received unsatisfactory ratings follows.

Technical Capability. The preaward survey team reported that Mancro demonstrated an understanding of the contract requirements, yet the company failed to take into account additional requirements necessitated by the longer length of the C-141B model aircraft as compared to the C-141A model. The cost to rehabilitate a C-141B model is \$2200 greater than the cost to rehabilitate a C-141A model (34).

Another area of technical capability which concerned the PAS team was the qualifications of Mancro personnel as Mancro only had five people working at the Ardmore facility during the PAS (7). Section M-3 of the solicitation mandates that, prior to award of the contract, the firm must employ personnel with the following qualifications:

- (1) A full-time manager with experience and training to qualify for managing a complex program.
- (2) A property manager, experienced in the administration of Government property under Defense

Maintenance Contracts, with ability to requisition, account for and control Government property.

- (3) Qualified Contract Administrator.
- (4) Production manager experienced in aircraft scheduling and maintenance work.
- (5) Quality control manager experienced in implementing Quality Assurance and Inspection Procedures and Standards.
- (6) Safety manager experienced with Government safety standards applicable to aircraft painting contracts. (34)

Additionally, the contractor must have satisfactorily accomplished aircraft maintenance and modification duties, during the period from fiscal year 1977 through fiscal year 1981. When Mancro submitted its proposal the company had no experience with aircraft similar in size to the C-141B and no experience on contracts for the quantity of aircraft designated in the painting contract. The aforementioned deficiencies also debased Mancro's production capability (4).

Production Capability. The facility Mancro intended to use for the painting contract had not been used for ten years and required numerous modifications. The restoration of electricity and water to the aircraft hangar was needed just to render the building usable (40).

Mancro's plan for accomplishing the contract, its production plan, was analyzed and found to coincide with the 30-day (20 work day) aircraft flow schedule. At the time of the preaward survey Mancro employed only five people in the

production area pending possible contract award. A total of 28 additional employees were needed to fill skilled production, non-skilled production, and administrative positions and a review of the resumes on file determined that the personnel were available (7).

Plant Facilities and Equipment. The layout and size of Mancro's paint facility did not allow for two aircraft outside the paint booth to be worked on simultaneously. The design placed the aircraft so close that the tail of the aircraft being stripped would be above the wing of the aircraft in final preparation following painting. Additionally, the hangar was too small for the aircraft to completely fit inside resulting in 14-15 feet of the aircraft protruding outside the hangar (34).

Another area of concern with Mancro's facility stemmed from the solicitation requirement that all fuel within aircraft tanks, cells, and lines be drained or the systems made inert, yet, the defueling area was inoperative. Tests of the three underground fuel tanks were needed to determine whether the amount of contaminants in the tanks met acceptable limits (49;2).

Additionally, the facility did not have explosion-proof wiring in the electrical and lighting systems nor did it have an environmentally controlled flammable storage area, as required by the solicitation. The facility's exhaust systems did not meet air flow requirements and the fireproof walls required repair (34).

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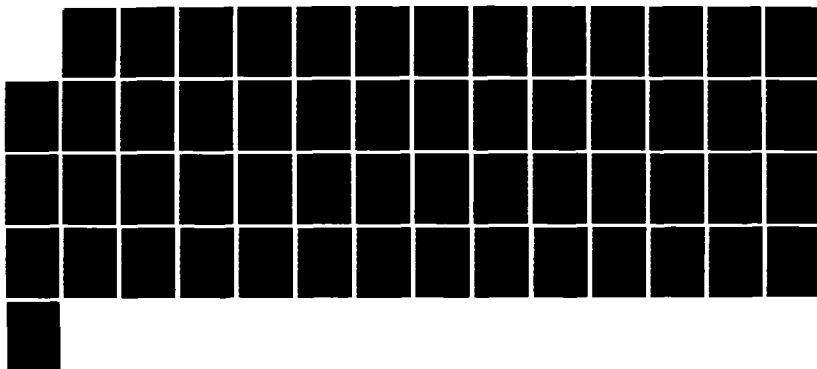
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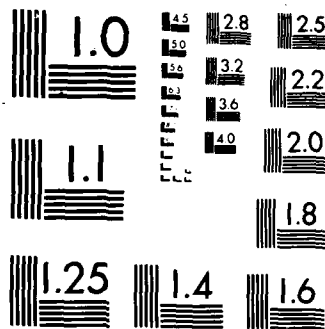
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Another concern with the operational capabilities of the facility was that both the fire suppression system and aircraft wash rack were inoperative. The wash rack lines and tanks needed extensive maintenance, replacement of a 1000 foot chemical drainage line that joins the hangar to the wash rack, and installation of a source to provide hot water (34).

The RFP required the paint facility temperature to remain between 50 and 85 degrees fahrenheit, yet the temperature controls were not functioning. Mancro lacked the necessary fuel cell maintenance equipment, corrosion control equipment, and hand tools necessary to perform the contract (4).

Inability to Meet Required Schedule. Because the hangar's design affected Mancro's ability to work on two aircraft (outside the paint booth) simultaneously, it also affected the company's ability to meet the required schedule. The solicitation provided for the assessment of liquidated damages (monetary compensation paid to the Government) at the rate of \$327.00 per day per aircraft for delays in completion caused by the contractor (49).

Plant Safety. The hazardous nature of the chemical strippers, paint, and refueling/defueling operations mandated that Mancro have an adequate number of trained fire fighters and a sufficient amount of equipment to effectively handle a fire. Mancro planned to schedule two firefighters

per shift but those individuals would also have other duties as well. The liquid capacity of the fire fighting equipment totaled 3300 gallons. These factors, combined, inhibit the rapid response of the fire fighters and limit the duration of fire fighting activities (34).

Conclusion. Before and after the preaward survey Mancro's reaction to problems noted by Government personnel was to make "hasty fixes, many of which have been altered repeatedly" (4). The non-explosion proof wiring was removed from the interior of the paint booth; however, the booth still had holes which would allow paint vapors to spread into other shop areas--areas lacking explosion-proof wiring. Mancro corrected many deficiencies in the fire suppression system but had not demonstrated the operation of the whole system. The preaward survey team reported that because of Mancro's lack of experience, reactive style of management, and insufficient hangar size, award of the contract to the firm would result in unsatisfactory performance (7).

Mancro's Response

In a letter to Oklahoma Congressman Wes Watkins, Mancro denied that they had submitted their proposal for the C-141A model as opposed to the C-141B model aircraft as reported by the preaward survey team (4). Following the preaward survey, Mancro proposed to modify and repair its facilities and to procure the additional equipment necessary to fulfill the requirements. Written correspondence from Mancro

relating to its ability to perform the proposed contract is presented below.

22 December 1982 Telex. In this telex to WR-ALC, Mancro reported that it had contacted prospective contractors to repair and modify the hangar and auxiliary facilities to a working condition. More than 14 qualified aircraft painters from Braniff Airlines had applied for employment with Mancro following the beginning of the preaward survey. Mancro also informed WR-ALC that the building maintenance man who worked at the hangar when the previous C-141 paint contractor was there would be working for them. Additionally, the former Quality Control Manager and General Manager who worked on the previous contract would be serving as consultants to Mancro. The remaining positions would be filled by current employees of Mancro and/or new employees (17).

23 December 1982 Letter. Mancro used this letter to WR-ALC and its attachments to certify the availability of competent contractors to restore the facilities at the airpark, to finance the contract, to obtain qualified personnel, and to procure the necessary equipment which would enable the company to begin work on the first aircraft by February 1983. The attachments included restoration and modification commitment letters from Oklahoma Gas & Electric, an electrical contractor, a plumbing contractor, two general contractors (for moving the paint booth wall

back four feet), and a fuel tank cleaning and restoration contractor. Both of the general contractors estimated moving the wall would take three weeks and could be completed by 24 January 1983. Also included in Mancro's attachments was a letter from the Ardmore Airport Manager outlining the city's fire fighting capabilities. The Airport Manager informed Mancro that the city currently had one O-11 crash truck but was expecting delivery of one more O-11 crash truck from the United States Forestry Service around 3 January 1983 (16).

Mancro furnished letters from two banks in Ardmore soliciting its business and the contractor stated that it had a one million dollar line of credit to finance the contract. In addition to the bank's line of credit, Mancro stated that it had designated \$225,000 to pay for rehabilitation of the hangar and to purchase equipment (16).

The company also stated that because of personnel reductions in the airline industry during last year, it could choose its managers and skilled employees from a large number of qualified personnel (16). The company included sources of supply and lead times (the time between placement of an order and receipt of the item) to show that it can obtain all of the equipment needed for the paint contract by January 1983 (16). The letter concluded with a restatement that the company's ability to rehabilitate the hangar and adjoining facilities, to obtain financing, to hire competent

personnel and to purchase the equipment it needed by 24 January 1983 would enable the company to begin work on the first aircraft by the beginning of February (16).

29 December 1982 Letters. In one of the letters, which was to WR-ALC, Mancro informed the contracting officer of the Ardmore Engineering Department's certification that the runway, taxiways, and ramps could accept a C-141 weighing as much as 250,000 pounds rather than the 240,000 pound limit Mancro originally furnished during the PAS (15).

(Apparently this factor became an issue at the pre-proposal conference as it was not addressed in the preaward survey.) The other letter, also to WR-ALC, was a request by Mancro for a waiver to the solicitation requirement that the runway be 8,000 feet long as the Ardmore runway is only 7,200 feet long with 400 foot overruns on both ends. Mancro furnished evidence that a previous paint contractor had used the Ardmore facilities for C-141 aircraft and had no problems with the runway (47).

3 January 1983 Letter. In this letter to DCAS-Dallas, Mancro stated that the Ardmore airpark facility now had two O-11 crash trucks. Each truck had an 1100 gallon liquid capacity which would yield 6,100 gallons of foam. Mancro also reported that three additional trucks would augment the current two trucks fifteen days after notice of contract award, if awarded to Mancro (37).

5 January 1983 Telex. Mancro informed WR-ALC that it had begun rehabilitating and modifying the Ardmore hangar and adjoining facilities. Mancro had committed itself to a long-term lease of the hangar and adjacent facilities with the city (14). According to Mancro, the following tasks would be complete and the areas would be functional by 1 February 1983.

- (1) Repair of hangar including reconnecting utilities, repairing hangar doors, reactivating fire protection system (alarms, fire hydrants, sprinklers and deluge system).
- (2) Set up office including the necessary forms to process receipt and handling of C-141B airplanes.
- (3) Renovate the jet fuel filter and tank storage area for single point defueling and refueling aircraft.
- (4) Set up stripping area and waste disposal facilities.
- (5) Enlarge and renovate paint booth area to completely enclose the C-141B for painting in a climatically controlled environment.
- (6) All other facility items that will be required to proceed with a C-141 paint program. (14)

In addition to outlining the work that had begun, Mancro stated that after measuring the length of the runway, the City of Ardmore determined that the runway was 7,700 feet long--not 7,200 feet as was initially relayed at the pre-proposal conference. The City is attaching a "hold harmless" clause to its certification of the taxiways, ramps, and runway as being able to support the weight of a C-141B aircraft. In other words, the city of Ardmore would not hold the Government responsible for any damage to the

taxiways, ramps, and runway caused by C-141's landing and taking-off from its airport (14).

10 January 1983 Letter. Mancro used this letter to WR-ALC to report work completed, work progressing, and work planned but not yet begun. Work completed included restoration of the large doors on the hangar so that they were operational. Work progressing included establishing the electrical connections for fire alarms and the deluge systems which were to be completed by Oklahoma Gas & Electric before 14 January 1983. The four underground fuel tanks were being cleaned and restored to working condition. The tanks were said to have epoxy linings to prevent corrosion and Mancro was told that the tanks had been operational a little over three years previously. The defueling area pit had been cleaned, but new filters and lines to the defueling pit would not be ready until 20 January 1983 (13).

The stripping, wash rack, and waste disposal areas were being renovated; however, progress had been limited by the nonavailability of parts. The estimated date of completion was 26 January 1983 (13).

Work planned but not yet begun included modifications to the paint booth door to prevent the aircraft radome from being painted. The company said these modifications could be finished in 3 working days. Enlargement of the paint booth, relocation of one wall four feet back, could be

accomplished in five working days. Mancro also stated that a Federal Aviation Administration (FAA) certified tower operator, who had experience at the Ardmore tower, could be available on short notice to direct C-141B aircraft landing and taking-off from the airport (13).

Mancro reported that some of its personnel visited Altus AFB in Oklahoma and measured the C-141B. Using those measurements, Mancro figured the available area after moving the paint booth wall four feet back was sufficient enough to allow the entire aircraft except for the radome (which is not to be painted anyway) to be contained within the paint booth. Thus, the aircraft would be painted in an environmentally controlled facility. Mancro extended an invitation to Air Force representatives to re-examine its facilities and to confirm Mancro's progress reports (13).

13 January 1983 Letter. In this letter to WR-ALC, Mancro again reported its progress in restoring the hangar and adjacent facilities to a good working condition. Three of the hangar doors on the south side were working. The removal of debris from the hangar apron and taxiway was being accomplished according to FOD (Foreign Object Damage) procedures and would be completed by 14 January 1983 (12). Mancro also included a letter from the city of Ardmore confirming the length of the runway as being 7,700 feet.

Work was said to be continuing on the fuel systems in accordance with Air Force Technical Orders and AFOSH (Air

Force Occupational Safety and Health) Standards. Filters were readily attainable and required less than one day to install. Restoration of the deluge/sprinkler system was continuing and was expected to be finished by 20 January 1983 (12).

20 January 1983 Letter. Mancro suggested, in this letter to WR-ALC that one of the underground fuel tanks could be designated for storage of fuel to be sold to the Government, if necessary (11).

Certificate of Competency Referral

Despite the proposed and completed actions by Mancro, the Preaward Survey Review Board still felt the deficiencies in Mancro's operation were substantial enough to justify a "No Award" recommendation on 7 January 1983. The contracting officer concurred with the recommendation and determined that Mancro Aircraft Company was not responsible. The contracting officer referred the case to the Small Business Administration (SBA) Regional Office of Industrial Assistance in San Francisco, California, for consideration of a Certificate of Competency (COC) issuance as required by section 19.602-1 of the Federal Acquisition Regulation (40;10:19-14).

Following its investigation, the SBA Regional Office notified the contracting officer of its intent to issue a COC. Still believing that Mancro was not responsible, the contracting officer requested that the Office of Small and

Disadvantaged Business Utilization (OSDBU) initiate a formal appeal of the COC issuance. The request was granted. The SBA Regional Office forwarded the case to the SBA Central Office in Washington DC for its review (40).

In an 18 March 1983 letter from the Director of the OSDBU on behalf of the Secretary of the Air Force to the SBA Office of Industrial Assistance in Washington DC (SBA's Central Office), the Director stated that given the arrival of the first aircraft to Mancro 18 days after contract award and the required completion of that aircraft 20 days later, "we could not hope to make a good conscience award of this contract to Mancro at any time in the near future" (36).

Representatives from the OSDBU and WR-ALC presented to the SBA and a congressional delegation (which included two Senators and one Representative from Oklahoma) their justification for denying a COC issuance to Mancro. The Air Force's case was not strong enough to dissuade the SBA from issuing a COC (40).

Consequently, on 8 April 1983, the Central Office of the SBA issued a COC to Mancro which triggered the 16 May 1983 award of the C-141B European One camouflage pattern painting contract, Contract No. FO 9603-83-C-0653, to Mancro (40). Mancro was to receive \$338,418 for the 18 aircraft to be painted in the basic contract period, \$516,152 for the 26 aircraft to be painted in the first follow-on option, \$538,746 for the 26 aircraft to be painted in the second

follow-on option, and \$141,127 for the 7 aircraft to be painted in the third follow-on option (49). These figures do not include payment for any "over and above" work; that is, additional work that is required and approved by Government representatives (49).

The contract award to Mancro received high level attention. In fact, a 23 May 1983 letter from the Chief of Staff, Air Force Logistics Command to the Deputy Director, Acquisition Management, Defense Logistics Agency (DLA), Cameron Station, Virginia, directed "special high level involvement to insure successful completion of the contract by Mancro" (30). Additionally, the letter stated:

Because the risk is higher with the directed award to MANCRO Aircraft Company, stringent management attention prior to and during performance is essential. Therefore, request your personnel, along with our people at WR-ALC, exercise special oversight of this contract while, at the same time, giving MANCRO every opportunity to perform. (30)

Government Assistance

The Air Force provided Mancro with guidance and assistance, mostly in the first few months following contract award, to compensate for shortcomings in Mancro's capabilities. Numerous examples of time and resources expended to help Mancro are presented below.

1. Military Airlift Command (MAC) representatives trained Mancro personnel in aircraft handling and servicing operations including assisting them in

launching the aircraft until they became proficient.

2. C-141 aircraft, which normally use JP-4 type fuel but can use JP-5 type fuel, were delivered to the contractor with JP-5 fuel because Mancro had not brought its fuel purging capability to an acceptable level. JP-5 fuel is much less volatile than is JP-4 and would reduce the hazards associated with defueling operations.
3. WR-ALC sent a Quality Control (QC) specialist to evaluate Mancro's stripping operations, and another QC specialist remained at Mancro several months to help them develop an inspection system.
4. Altus AFB in Oklahoma furnished liquid oxygen (LOX) and LOX carts (used for transferring LOX to the aircraft) to Mancro until it located a source of supply.
5. WR-ALC's Material Management Section furnished personnel on several occasions to advise Mancro on supply and production procedures.
6. Mancro's problems in stripping the aircraft and resultant delivery delays prompted the Government to provide scuff and sand aircraft to Mancro in the early winter months as a fully stripped aircraft needs to be housed in a hangar which meets the temperature requirements outlined in the RFP.

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7. Additionally, personnel from the Headquarters AFLC Special Activities Office visited Mancro 8 times for a combined total of 20 days (2).

Contractor Performance

Mancro's performance under the C-141B painting contract was determined to be unsatisfactory. The contractor failed to maintain the temperature, humidity and air purity levels required of its paint booth. Mancro used an inferior quality paint, did not adhere to safety requirements, and was not able to deliver the vast majority of aircraft within the 30 calendar days allotted in the contract. The delivery delays on a few aircraft could be partially attributed to the Government's failure to provide the correct material to Mancro on time and the its failure to advise Mancro that the aircraft to be chemically stripped had polysulfide primer on the stretch plugs in lieu of epoxy primer, of which, the polysulfide primer is more difficult to remove (2).

However, Mancro was not penalized for delinquency caused by the Government. The small size of Mancro's hangar dictated that the workers spend additional time to remove and then replace each airplane's wingtips so the aircraft could fit in the hangar (2).

The first aircraft Mancro stripped and painted (tail number 63-8088) was not accepted. The exterior of the airplane had visible brush marks, vertical streaks, and a grainy texture. On 23 August 1983, Mancro requested that

WR-ALC review the camouflage pattern on aircraft 64-0653 and grant Mancro a waiver to allow deviations from the pattern. Mancro's request was turned down (2).

First Follow-On Option

In January 1984, WR-ALC's Material Management Office requested the Directorate of Contracting & Manufacturing to consider Mancro for default and termination as the result of poor performance. The case was submitted for a legal review. After review by the Judge Advocate, the contracting officer determined that an adequate basis for default did not then exist and decided to exercise the first option period on the contract (2).

In June 1985, the contracting officer at WR-ALC notified Mancro of deficiencies in 3 of the aircraft painted (24). During the summer and winter months, the temperature of the paint facility, which was frequently outside the 50 to 80 degree fahrenheit range, retarded the stripper's effectiveness (31).

In response to a June 1985 request from WR-ALC, the DCASR-Dallas Administrative Contracting Officer (ACO) for the Mancro contract conducted a review of Mancro's quality assurance capability, financial capability, plant safety, and environmental/energy considerations (28).

Quality Assurance Capability. Mancro's Quality Assurance Department was comprised of a Waste Disposal

Technician, an Aircraft Inspector, a Manager who also functioned as an inspector, and a Technical Order Clerk (28).

Six Material Deficiency Reports (MDRs) were filed on Option Year One aircraft. The MDRs primarily addressed paint adhesion problems which, according to the Government's QAR, "are relatively minor and limited in scope" and "are not indicative of a weak or poor Quality Assurance Capability" (28). Additionally, the QAR stated "We fully expect Mancro's high level of quality to continue and improve as additional experience is gained" (28).

Financial Capability. Following a review of Mancro's financial statements, the DCAS Financial Analyst concluded that the company's financial condition had been improving during the previous five quarters and that Mancro had the capability to finance the second contract option (28).

Plant Safety. Mancro had made small, continual improvements toward correction of safety deficiencies reported in the PAS. In February 1985, Mancro appointed a new Fire Chief/Safety Manager who, according to the ACO, brought about "a noticeable improvement in the Safety Program" (28).

The DCASR Government Flight Representative inspected the Ardmore facility on 26 June 1985 and noted no discrepancies. The Flight Representative found the maintenance areas to be very clean and the FOD (Foreign Object Damage) program to have improved (28).

Environmental/Energy Considerations. The evidence indicated that Mancro had complied with all Environmental Protection Agency (EPA) and local requirements. The Waste Disposal Technician's proficiency had resulted in numerous improvements in the waste treatment program (28).

Second Follow-On Option

On 10 July 1985, WR-ALC decided against continuing the paint contract and exercising the second option with Mancro. Only 4 of the 37 aircraft delivered by Mancro had been returned to the Government within the 30 calendar days required. Additionally, a continual decline in the contractor's quality over the previous twelve months had been noted. WR-ALC reported that "Nine of the last eighteen aircraft have had serious problems including paint peeling, flaking, sealant loss, and poor bonding of primer" (2). Although a few delays were caused by the Government, Mancro had an average turn-around time of 54 days (2).

Mancro's Response

Upon hearing of WR-ALC's intention not to exercise the second contract option, Mancro's President wanted to know why that decision was made. In his 16 July 1985 fact sheet, Mancro's President wrote "There has been no expression of concern, written or oral. We thought everything was going great" (3). Mancro requested that the Government's Quality Assurance Representative at the Ardmore facility survey

organizations which had received C-141Bs painted by Mancro under the camouflage painting contract. The survey results, included as an attachment by Mancro, were positive and contained such comments as "Mancro's look good. Better, more accurate patterns" and "Nothing of significance. Same type of problems regardless of who paints them" (29).

Mancro's President also referenced the favorable comments of the 1 July 1985 letter outlining the results of a review of Mancro's quality assurance capability, financial capability, plant safety, and environmental/energy considerations conducted by the DCAS Administrative Contracting Officer (ACO). Mancro's President reiterated the company's desire to make restitution for any quality problems--a desire which the company says it expressed in a 2 July 1985 letter (3).

Given the pro-small business policies of President Reagan, the declared policy of Congress (as stated in the Small Business Act of 1958), the letter from the Deputy Director of Acquisition Management at DLA directing "special high level attention" and a letter from the AFLC Commander to WR-ALC personnel directing special contract oversight, the President of Mancro could not understand why WR-ALC decided against exercising the second contract option (3).

Additionally, Mancro's President stated that WR-ALC had not responded to the company's letters requesting assistance and, in general, WR-ALC had given very little assistance to Mancro. He also noted that WR-ALC had not informed the company of any quality or scheduling problems (3).

He further stated that WR-ALC billed Mancro for transportation costs arising from the requirement to ship one aircraft back to Mancro for warranty work, yet in the pre-proposal conference, Government representatives said the Government would pay the transportation costs. He cited examples in which other contractors were not asked to pay the return transportation costs and saw WR-ALC's demand as "an obvious attempt to put MANCRO out of business" (3).

Mancro's President also noted the company's realization "of the importance of delivering a high quality product on time and have tried to always accomplish that goal" (3). At the time of the President's letter, Mancro was doing warranty work on aircraft 66-9755 to correct problems it believed were partially caused by defective government furnished material. Mancro stated that it was not told of any quality problems, other than minor ones, with other work it had performed (3).

The President of Mancro stated that a decision by WR-ALC not to continue with the second contract option would lead Mancro to lay off its 81 employees at the Ardmore facility and to discontinue its work in Ardmore. He believed that the facts could not justify a decision against exercising the second contract option and that "there has been an obvious misunderstanding of some sort, that it will be rectified and allow us to continue to perform under the existing contract" (3). He also believed "that for whatever

reason, there are those at WR-ALC who are prejudiced against our company" and "that an objective review will support our feelings that we have not been treated fairly from the beginning of this contract" (3).

A meeting between the Air Force Assistant Secretary for Research, Development and Logistics, the Warner Robins Assistant DCS for Contracting and Manufacturing, a Congressman and representatives from a Senator's office in Oklahoma, and the President of Mancro was called to address the situation. The final guidance resulting from the meeting focused on the desire "to support the administration's policy regarding small business" (40). Hence, WR-ALC was directed to implement the second option of the contract in increments while closely evaluating the contractor's quality and timeliness of completion. The quantities of the remaining options were reduced and a fourth option was added to facilitate completion of the contract (40). Eleven aircraft were to be completed during each of the three remaining follow-on options with a final completion date of 31 May 1987 (40).

Resumption of Work

As work progressed into the winter months, the low temperatures prevented the paint stripper from effectively removing the paint. In a 25 November 1985 letter from the DCASR-Dallas ACO to the Contract Administrator at Mancro, the ACO stated that "over and above requests for the removal

of polysulfide primer by sanding on chemically stripped aircraft will be held in suspense status pending my review of information relating to that task" (27).

Mancro's 3 December 1985 reply to the ACO's letter focused on the reasons why it felt the Government should continue to remunerate Mancro for over-and-above work to strip the polysulfide primer that the chemical stripper was unable to remove. Mancro's Contract Administrator stated that, up until that time, the company was being paid for the over-and-above work only after being approved by the Government Quality Assurance Representative and the Industrial Specialist. The Government's decision to change chemical strippers being used resulted in Mancro being furnished a stripper ineffective at removing polysulfide primer, he maintained (47).

The Contract Administrator also pointed out that the contract only stated that the hangar temperatures should be between 50 and 100 degrees fahrenheit, and did not require it. The Government QAR, Industrial Specialist, and WR-ALC Technician, he said, could attest to the fact that the over and above work was necessary to remove the residual polysulfide primer; thus, Mancro should be paid for the work (47).

Work on aircraft 66-0168 was terminated for the convenience of the Government when severe corrosion of the airframe was found. The aircraft was flown back to WR-ALC

on 5 January 1986. It was at that time when WR-ALC inspectors realized that abrasive paper had been used to remove residual paint on the aircraft's exterior. Early assessments of the damage to aircraft 66-0168 included findings that "108 out of 138 fuselage panels have damage from the use of 80-120 grit sandpaper" and that "The damage consists of the removal of the cladding, the pure aluminum alloy panel to prevent corrosion, but also includes numerous gouges and nicks which represent incipient stress corrosion and/or fatigue cracks" (40). A WR-ALC representative present at the Mancro plant on 10 December, approximately the same time aircraft 66-0168 was there, noted that the temperature of the hangar was 35 degrees fahrenheit--a temperature outside the effective range of the chemical stripper.

Mancro, the DCAS, and the ALC failed to notice a CAUTION paragraph, paragraph 2-23 of Technical Order (TO) 1-1-8, Application of Organic Coatings, Aerospace Equipment, which stated that "mechanical methods shall be restricted to the purpose intended and shall be used only when authorized by the responsible Air Logistics Center System Manager, Item Manager, or Corrosion Program Manager" (2). Although no one at WR-ALC authorized the use of sand paper, the DCAS Quality Assurance Representative at Mancro did authorize over-and-above work using sand paper to remove paint left after applying the chemical stripper. Thirty-two of the 48

aircraft input to Mancro were for chemical stripping and repainting. The QAR approved over and above work on 28 of those 32 aircraft for the purpose of removing paint remaining after chemical stripping operations. Nine aircraft received 1000 hours or more over-and-above work to remove residual paint (31).

On 15 January 1986, Mancro was sent an electronic message detailing unsatisfactory performance stemming from its use of a mechanical paint stripper which was not in compliance with T.O. 1-1-8. The company was directed by the contracting officer to "detail your plan of action to fully comply with cited T.O." no later than 24 January 1986 (48). On 4 February 1986, Mancro was given a cure notice because its "use of abrasive paper for removal of paint and paint residue from the exterior surface of the C-141 aircraft is causing extensive damage to the clad and anodize protective coating of the aircraft and is not in accordance with the removal procedures specified in the contract" (23). The cure notice stipulated that unless Mancro was able to effectively chemically strip the aircraft and refrain from using a mechanical stripper within ten days after receipt of the notice, the contract may be terminated by the Government (23).

Because Mancro had made no progress in developing a plan to discontinue use of the mechanical paint stripper and to alleviate its performance problems, a "Show Cause Notice"

was given to the company on 24 February 1986. The notice gave Mancro 10 days to present mitigating circumstances affecting its performance and justification for why the government should not terminate the contract (22).

In its 4 March 1986 reply, Mancro claimed that its 12 February 1986 reply (not available) sufficiently addressed the problems occurring from the use of the mechanical stripper. WR-ALC had approved the use of a different chemical stripper which Mancro believed would eliminate the problem. Mancro's Contract Administrator reiterated a point brought up in his 3 December 1985 letter; that is, that the RFP does not require the stripper area to be environmentally controlled but does require the painting area to be environmentally controlled. His reply to WR-ALC's statement that the cold temperature of the hangar caused the paint removal problems was "Although severe cold does delay the action of the stripper, our problems started when Warner Robins decided we should not use SR-47 stripper as well as discontinuing sand scuffing aircraft painted with polysulfide primer" (45).

The Contract Administrator continued by noting that Mancro did not make "any unilateral decisions regarding work on the aircraft;" rather all work it did was approved and paid for. Thus, if mechanical stripping of the aircraft was counter to the contractual requirements, Mancro should have been advised of that fact much earlier. In fact, the

Contract Administrator stated that they had received approval to mechanically strip 25 additional aircraft after aircraft 66-0168. Additionally, the Contract Administrator noted that all over-and-above work for the removal of polysulfide primer accomplished by Mancro was approved by the ACO. Thus, he stated, that based on the information furnished, "we feel that there would be no justification for termination of this contract" (45).

Mancro was terminated for default on 18 March 1986 and later appealed the termination. Mancro was the first contractor, of which the OSDDBU is aware, to be terminated for default following a formal appeal of the COC issuance during the last fifteen years (36). As of that date, Mancro had completed and delivered 48 aircraft, of which 16 were sand scuffed and oversprayed while 32 were chemically stripped and repainted. Mancro was assessed liquidated damages, monetary compensation paid to the Government, for the late delivery of 9 aircraft. While at Mancro's facility, 12 aircraft received damage consisting of "broken windshields to apparent vandalism involving damage to an engine's cowl" (40). Mancro received approximately \$4.4 million for the 48 aircraft it either sand scuffed and oversprayed or chemically stripped and repainted (40).

Analysis

The termination for default of Mancro Aircraft Company was necessitated by 1) the contractor's inability to

effectively chemically strip the aircraft and 2) the contractor's inability to meet the required delivery schedule. The root cause of both of these problems stems from workaround procedures resulting from the small size and low winter temperatures of the contractor's facility. An additional cause of the unacceptable stripping practices having been utilized on numerous aircraft was the failure of both the contractor and Government representatives at the plant to detect the extensive damage caused by the mechanical stripper and to halt its use. A mitigating factor relating to delivery delays was the Government's furnishing of incorrect materials to the contractor; however, schedule adjustments were made and the contractor was not penalized for these delays. The two major factors, the small size and low temperatures of the contractor's facility and failure of both the contractor and Government representatives to detect the extensive damage caused by the mechanical stripper, are expounded upon below.

Contractor's Facility

The request for proposal (RFP) did not state that the contractor's facility "shall" be between 50 and 100 degrees fahrenheit; rather it stated that the temperatures "should" be within that range. The contractor contends it interpreted that statement as meaning that it need not worry about maintaining those temperatures. However, if the chemical stripper does not work properly under conditions

less than 50 degrees fahrenheit and greater than 100 degrees fahrenheit, it is incumbent upon the contractor (if it wants to perform the contract to the best of its ability) to realize this and try to remedy the situation.

The facility's small size did not allow for the aircraft work flow to proceed at the established pace. The pace was slower than required because the contractor had to take the time to remove the wingtips of all the aircraft to enable them to fit inside the hangar. Additionally, the aircraft had to be maneuvered into the hangar very carefully as only inches separated them (2).

Failure to Detect Damage

An important point to note is that the C-141B painting contract fell under the category of aircraft maintenance and modification, according to the contracting officer (34). In the Defense Logistics Agency Manual (DLAM) 8300.1, Maintenance and Overhaul (M & O) services include "repair and modification services, such as aircraft MOD/PDM/PDLM and aircraft engine overhaul or whatever other term is used to identify M & O services" (9:41). Thus, it can be assumed that the contract with Mancro fell within the criteria for M & O services and should have been administered as such. The manual also notes that "many M & O contracts contain features of time and materials contracts and require close surveillance of the services performed to insure protection of the Government's interests" (9:41). It is apparent that

DCAS personnel maintained constant surveillance of the plant but it appears the Industrial Specialist did not act "to anticipate production problems, to assure corrective actions and to recommend preventive actions" as required by the manual (9:41).

Areas of concern for M & O contracts and areas which proved critical to this contract include monitoring of the contractor's over-and-above work procedures and its production progress. As it applies to new tasks for over and above work operations, the Industrial Specialist will "perform a physical evaluation for new tasks when practical by onsite observation of the actual work operations" (9:43). Therefore, when the contractor received approval by the QAR for over and-above-work to remove residual polysulfide primer, the Industrial Specialist, along with the QAR, should have observed the work and should have detected the resultant damage to the first aircraft stripped using a mechanical stripper.

Not only should the contractor's in-house Quality Assurance personnel have noticed the aircraft damage resulting from the use of the mechanical stripper, but the workers should have noticed it as well. It appears that the contractor only corrected problems when brought to its attention by the Government and no sooner.

Impact of Contractor Performance
on the Air Force

It is difficult to quantify the costs incurred by the Government because of Mancro's inability to meet the requirements of the contract and subsequent termination for default. Although a dollar value can not be put on the additional administrative and contractual expenses resulting from the delivery delays, quality problems, and contract default, a few of the costs which can be quantified are listed below.

The WR-ALC Damage Tolerance Assessment Lab conducted three series of tests on the aircraft to determine the extent to which Mancro's use of the mechanical paint stripper damaged the aircraft, contributed to accelerated fatigue and corrosion, and reduced the useful life of the aircraft.

- (1) Damage Tolerance Assessment - will use data on scratch depths and their proximity to each other to make a finite element analysis to determine the effect of the scratches on the fatigue life.
- (2) Fatigue Tests - will be done independently by WR-ALC and Batelle to determine crack initiation on plain panels, crack initiation on panels with fastener holes, and the crack growth rates.
- (3) Corrosion Tests - will be done independently by WR-ALC and Batelle and consist of exfoliation and salt spray tests. (40)

These tests would have been invaluable for determining the cost to repair the damage caused by Mancro; however, as of 15 August 1986, these tests had not been received by the

WR-ALC Termination Contracting Officer and were not available for this research (20).

One aircraft was shipped back to Mancro which cost the Government \$46,755. Additionally, the Government incurred monetary costs, which are unknown, arising from the requirement to ship the aircraft damaged by the mechanical stripper to WR-ALC for testing at the Damage Tolerance Assessment Lab.

The chemical paint stripper used by Mancro was furnished to it by the Government, thus when Mancro used additional stripper to remove residual paint, the Government paid for it. Most, if not all, of the over-and-above work for the removal of residual paint probably could have been eliminated had the contractor's facility been within the optimal temperature range.

The Government incurred numerous TDY expenses from sending WR-ALC representatives and MAC personnel to Oklahoma for contractor assistance.

Conclusion

It is quite evident that many factors contributed to the poor performance and subsequent termination for default of Mancro Aircraft Company. In several instances, the Government failed to provide Mancro with the correct materials in a timely manner and it also appears that the Government representatives at Mancro's facility did not exercise close oversight of the contract. On the other

hand, Mancro made a commitment to modify its facilities which it did not fully honor. Just like the Government, Mancro's "experts" failed to closely scrutinize its work.

VI. Conclusions and Recommendations

The first part of this chapter presents the answers to the five research questions. Each question is presented individually, relevant data is briefly presented, and the question is then answered. The second part presents recommendations stemming from the conclusions of this research and difficulties encountered during the research effort.

Summary of Findings and Conclusions

Research Question One.

How many requests for a formal appeal of an intended Certificate of Competency (COC) issuance were received by the Office of Small and Disadvantaged Business Utilization (OSDBU) of the Office of the Secretary of the Air Force from Air Force Logistics Command Air Logistic Center (ALC) contracting officers from the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985? Of those requested by ALC contracting officers, how many appeals were undertaken by the OSDBU? How many appeals undertaken by the OSDBU on behalf of an ALC contracting officer were lost?

During the time period from the beginning of the first quarter of fiscal year 1981 through the last quarter of fiscal year 1985, only six formal appeals of an intended Certificate of Competency issuance were requested by Air Logistics Center contracting officers. During that time frame, only two appeals on behalf of an ALC contracting officer were undertaken by the OSDBU. One of the formal appeals, for the Oklahoma City ALC, was won by the Air Force. The other formal appeal, for the Warner Robins ALC, was lost by the Air Force.

Research Question Two.

In cases in which the OSDDBU appealed the COC issuance but the SBA issued the COC anyway, how was the performance of those contractors? Were deliveries under the contracts late? If so, how late? Were there cost overruns? Did the items meet the required specifications? Did contract defaults result?

The case study used for this research was the C-141B painting contract with Mancro Aircraft Company because it was the only contract which met the research criteria. Mancro had no experience painting aircraft and its performance was unsatisfactory because of delivery delays and problems with quality caused by an inadequate facility for paint stripping operations. Its lack of experience was evident as the first aircraft it stripped and painted was not acceptable to the Government. Before completion of the basic contract Mancro had already fallen behind its delivery schedule. There were six Material Deficiency Reports filed on Option Year One aircraft; however, the Government's Quality Assurance Representative (QAR) felt that they were "relatively minor and limited in scope" (29). When it was time to invoke the second contract option, which was done against the wishes of Warner Robins ALC, the Government had already assessed liquidated damages for nine aircraft delivered late. Because of problems with Government furnished material and problems with Mancro's ability to strip and paint the aircraft quickly, the company was averaging a turn-around time of 54 days. (The contract required a flow time of 30 calendar days.) Also, the last

nine out of eighteen aircraft completed had serious problems with paint adhesion. Twelve aircraft which passed through Mancro's facility were damaged by Mancro personnel. Some aircraft had broken windshields while others were vandalized.

The contractor's facility did not maintain a temperature between 50 and 100 degrees fahrenheit as was suggested in the contract. Thus, the extreme cold and hot temperatures resulted in the chemical stripper becoming ineffective. After Mancro applied numerous coats of the stripper to no avail, it resorted to using abrasive sand paper on the exterior surfaces of the airplane which caused extensive damage to the aircraft's exterior. The Government issued Mancro a "Cure Notice" on 4 February 1986 because of its use of the mechanical stripper. The company failed to improve its performance and was given a "Show Cause Notice" on 24 February 1986. As far as the Termination Contracting Officer was concerned, Mancro did not adequately justify why the Government should not default the company, and Mancro was terminated for default on 18 March 1986.

Research Question Three.

If the material or service did not meet the required specifications or if there were delays and/or defaults, did they result in grounding of a weapons system or impairment or combat capability?

The delivery days and problems with quality reduced the time the aircraft were available to fly their missions. Other than the time required to repaint portions of the

aircraft's exterior and to repair the items damaged while at the contractor's facility, there is no current evidence to indicate that the aircraft could not perform their regular missions. However, the results of the damage tolerance assessment tests, fatigue tests, and corrosion tests are not yet available to determine if the expected useful life of the aircraft was reduced because of damage caused by Mancro's use of the mechanical stripper.

Research Question Four.

Did the Government incur any tangible costs, not reimbursed by the contractor, resulting from the contractor's failure to provide products or services that meet the specifications, cost overruns, delays in delivery, or defaults?

It is difficult to quantify the costs incurred by the Government because of Mancro's inability to meet the requirements of the contract and subsequent termination for default. Although a dollar value can not be put on the additional administrative and contractual expenses resulting from the delivery delays, quality problems, and contract default, a few of the costs which can be quantified are enumerated below.

In the May through June 1986 time frame, the WR-ALC Damage Tolerance Assessment Lab along with Batelle conducted three series of tests on the aircraft painted by Mancro. The purpose of the tests was to determine the extent to which Mancro's use of the mechanical paint stripper damaged the aircraft, contributed to accelerated fatigue and corrosion, and reduced the useful life of the aircraft.

- (1) Damage Tolerance Assessment - will use data on scratch depths and their proximity to each other to make a finite element analysis to determine the effect of the scratches on the fatigue life.
- (2) Fatigue Tests - will be done independently by WR-ALC and Batelle to determine crack initiation on plain panels, crack initiation on panels with fastener holes, and the crack growth rates.
- (3) Corrosion Tests - will be done independently by WR-ALC and Batelle and consist of exfoliation and salt spray tests. (40)

These tests would have been invaluable for determining the cost to repair the damage caused by Mancro; however, as of 15 August 1986, these tests had not been received by the WR-ALC Termination Contracting Officer and were not available for this research (20).

Shipping expenses of \$46,755 were incurred by the Government because of the necessity to ship one aircraft back to Mancro for warranty work. Additionally, the Government incurred monetary costs, which are unknown, arising from the requirement to ship the aircraft, presumed damaged by the mechanical stripper, to WR-ALC for testing at the Damage Tolerance Assessment Lab.

The chemical paint stripper used by Mancro was furnished to it by the Government, thus when Mancro used additional stripper to remove residual paint, the Government paid for it. Most, if not all, of the over and above work for the removal of residual paint could have been eliminated had the contractor's facility been within the optimal temperature range.

The Government incurred other expenses from sending WR-ALC representatives and other personnel TDY to Ardmore, Oklahoma for contractor assistance.

Research Question Five.

Are there any differences in the procedures used by Department of Defense contracting officers and by the SBA for determining contractor responsibility which could result in opposing determinations of responsibility?

Neither the SBA nor the contracting officer want contractors who are incapable of performing Government contract work. The SBA has the role of promoting the interest of small businessmen by helping them receive Government contracts; yet, at the same time, it has the power to remove much of the contracting officer's discretion in awarding contracts when small businesses are involved.

The SBA's procedures for determining the capacity of a contractor are not as thorough as those used by the Defense Contracting Administration Service (DCAS) when performing preaward surveys. Given that a person performed two different preaward surveys on the same contractor at the same point in time, one using the procedures used by the SBA and the other used by the DCAS, while not relying on any personal knowledge or experience, the results would definitely be different. The SBA's procedures are more favorable for the contractor as they lack the depth found in the DCAS procedures. However, there is nothing in the SBA's Certificate of Competency Standard Operating Procedure which

biases it towards small business except the one area noted in the GAO study. That area is the SBA's practice of assessing a contractor's delivery performance against an adjusted delivery schedule rather than against the original delivery schedule as is the practice used by the contracting officer. This procedure is too lenient given the frequent delivery date adjustments undertaken by administrative contracting officers in order to remove contracts from delinquent status. If there were Government caused delays DCAS would take them into account. In summary, it is obvious, given the Mancro case, that the differences in procedures can, and some times do, lead to opposing determinations. What is not so obvious is exactly why, or what should be done about it.

Recommendations

Recommended actions to improve the ability to track COC cases referred by ALC contracting officers and to align the SBA's and contracting officers procedures for determining contractor responsibility are presented below.

Problem One. The first hurdle encountered in this research was the inability to conclusively determine the number of contracts awarded by the five ALCs as the result of a COC having been issued by the SBA. The COC Quarterly Reports, RCS: DD-DR&E, provided limited information pertaining to the COC referrals from each ALC. The "Final Disposition" column often contained "Pending" when there had

been no final decisions by the SBA as to its intent to issue a COC. Additionally, each report forces the reader to examine each referral, to note whether a COC was issued, and to total all the COC issuances to determine the quantity of contracts awarded by the ALCs because of a COC issuance. In some cases, it was difficult to determine what actually was the final disposition. Referrals that extend across two quarters were even more difficult to trace. The ability to generate statistics from each ALC's COC Quarterly Report is significantly hindered by the scant amount of detailed information presented in the report.

Recommended Actions. A useful item in the COC Quarterly Report would be the reason for the contracting officer's referral; in other words, the area(s) of responsibility in which the prospective contractor is lacking. The "Final Disposition" column should be more thorough and informative, especially for "Pending" (SBA action) cases. All three of the aforementioned suggestions would enhance the COC Quarterly Report's usefulness as a management tool.

Problem Two. Very few formal appeals of an intended COC issuance are requested by ALC contracting officers which indicates either a lack of faith in the appeal process, ignorance of the appeal process, or unwillingness (or inability) to devote the time and effort required to prepare an appeal. Even when formal appeals are requested, they

often lack substantive documentation and are turned down by the OSDBU.

Recommended Actions. Contracting officers should be encouraged to challenge intended COC issuances. Although it is all too easy not to "fight" the COC issuance and then later to blame the SBA when the contractor performs poorly, the contracting officer must have had some justification for originally determining the contractor to be nonresponsible. Presentation of a thorough appeal case file will increase the likelihood of the SBA backing down and not issuing the COC. It may be the responsibility of the contractor to demonstrate its ability to perform the contract; yet, to win a formal COC appeal, the Air Force has to have a well-documented case proving why the contractor lacks the ability to perform the contract.

Problem Three. The SBA's COC Standard Operating Procedure and the guidance used by Department of Defense contracting officers for determining contractor responsibility do not provide the same depth of coverage in a few of the survey areas--particularly quality assurance, tenacity and perseverance, and integrity.

Recommended Actions. The SBA's COC procedures need to be revised to assess contractor performance against the original delivery schedule as is done by the contracting officer. Additionally, quality assurance capability should be covered with the same level of depth used by the DCAS to

reflect the level needed of defense contractors. The Federal Acquisition Regulation needs to be revised to incorporate standards against which the contracting officer can assess the contractor's tenacity and perseverance, and integrity. Without strong procedures, it is difficult for the contracting officer to formulate a strong case against the contractor in those two areas.

Areas for Further Research

The Air Force would benefit from further research concerning the SBA's COC program and the COC appeal process available to contracting officers. Two suggestions for additional research are presented below.

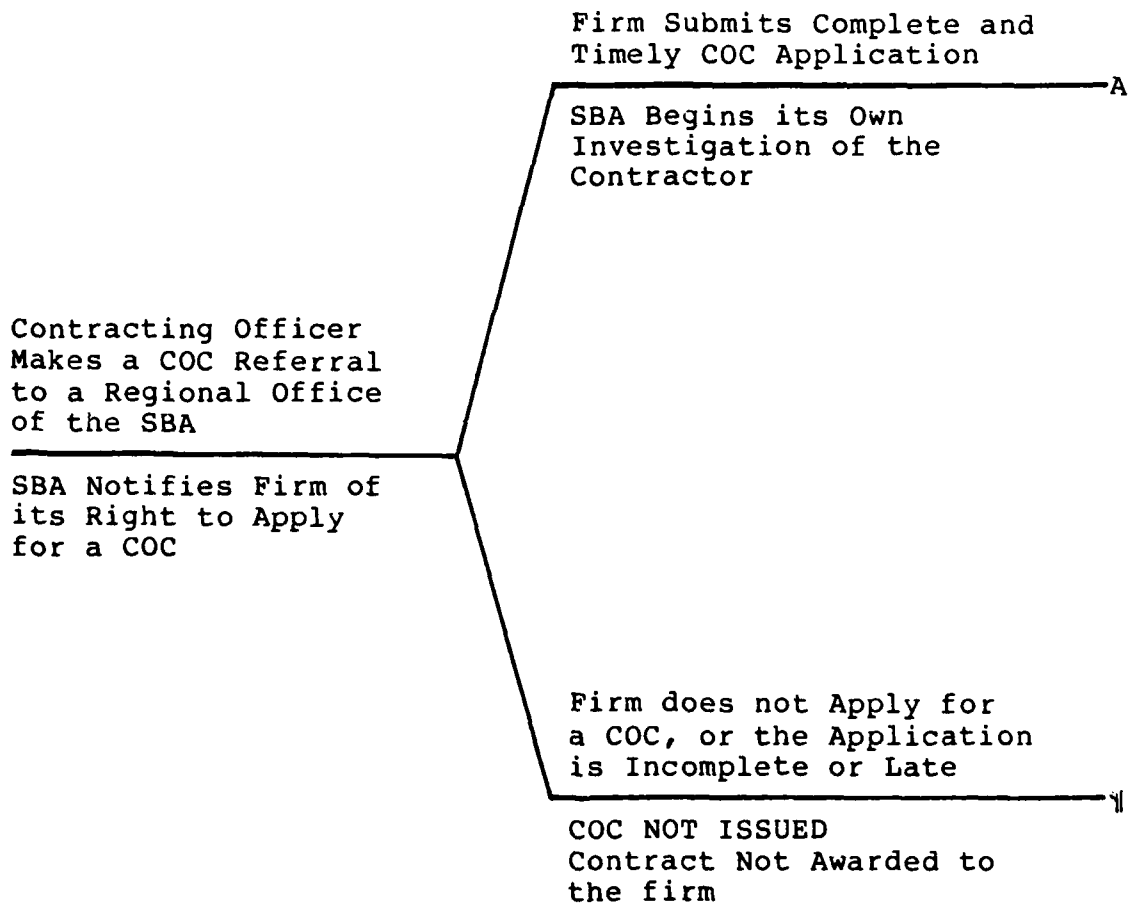
1. The SBA's COC program is meant to help small businesses become established or reestablished as defense contractors. An analysis of the COCs issued by an SBA Regional Office over a designated time span would help determine whether some contractors are relying solely on the COC program to receive contracts or whether the program has helped them to become established defense contractors.
2. An investigation into the performance of contractors on contracts awarded by ALC contracting officers following the contracting officer's request for a formal appeal, which was turned down

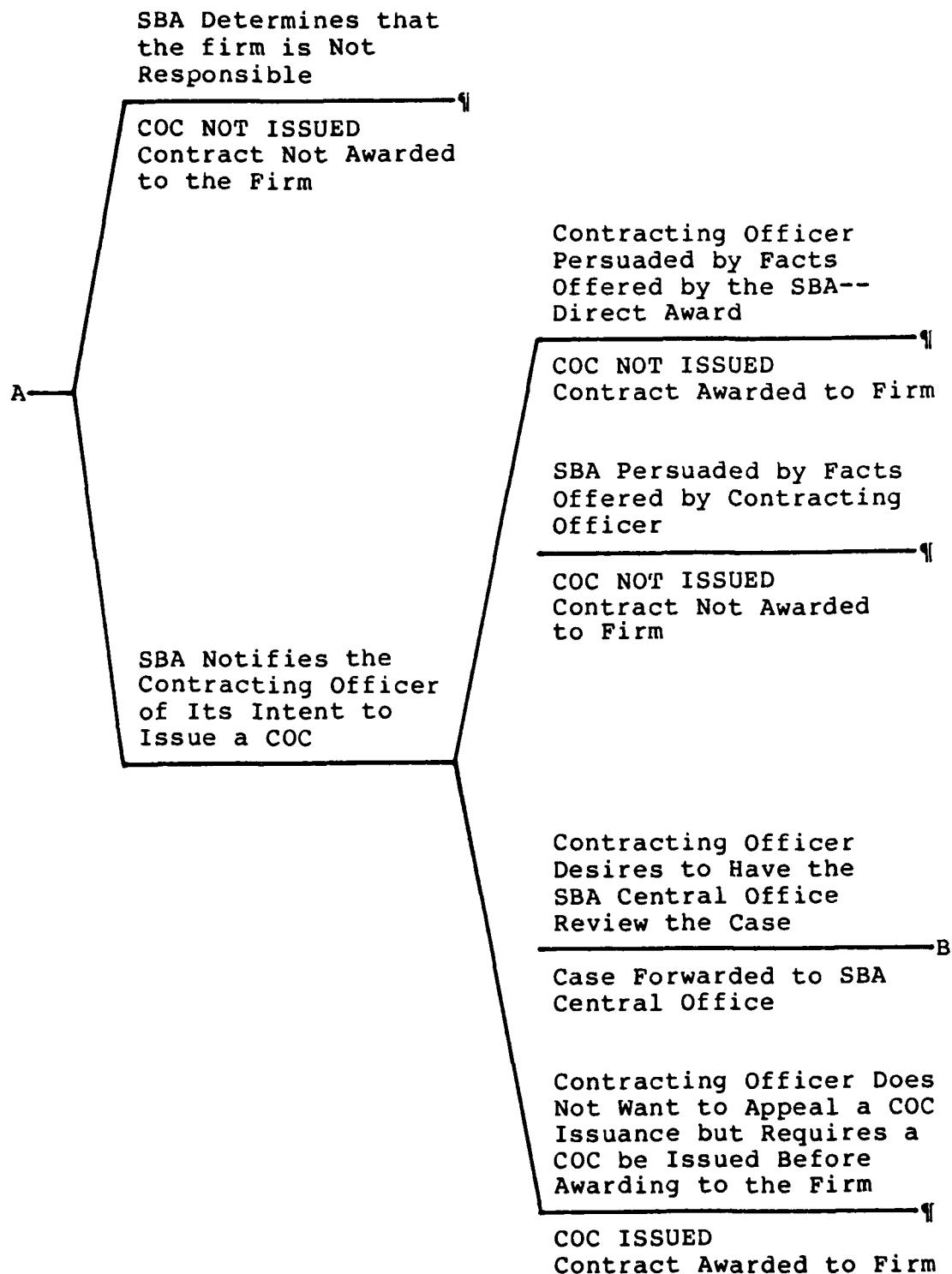
if the OSDBU was justified in turning down the appeal.

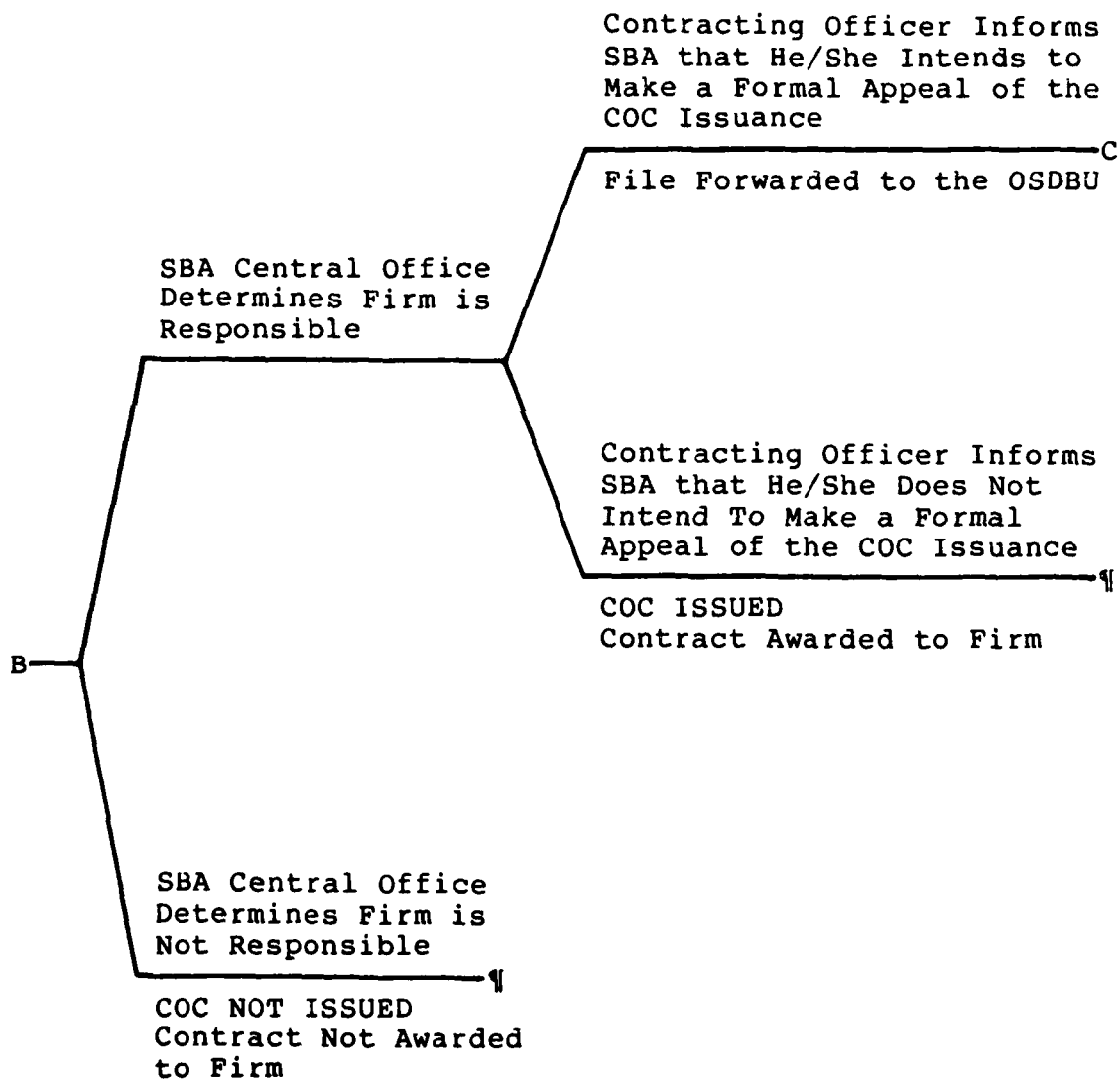
Conclusion

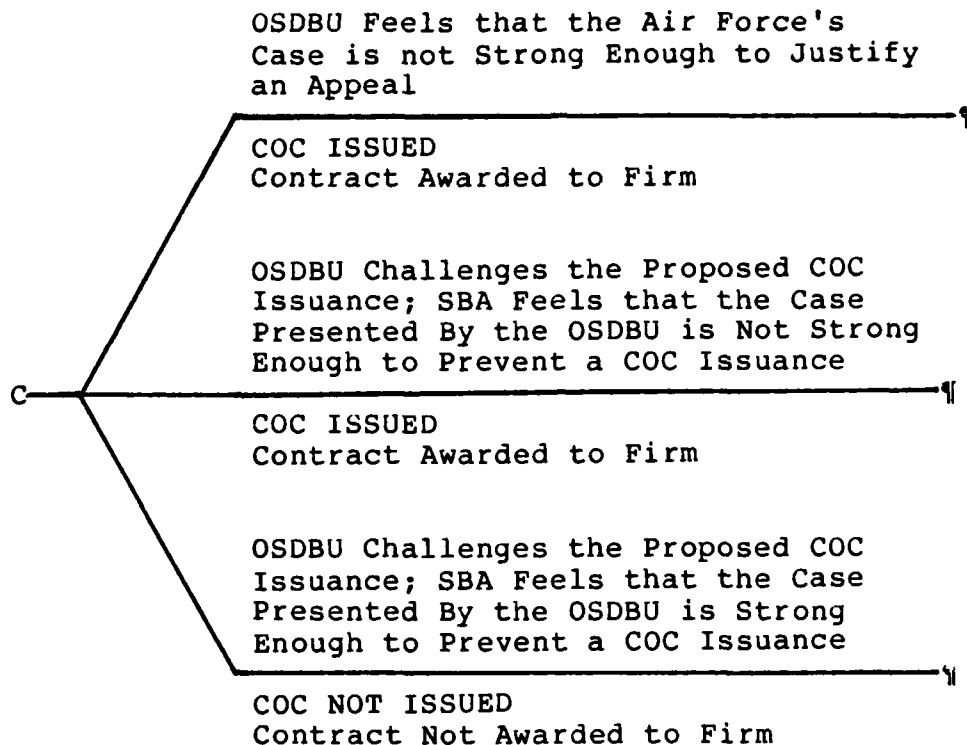
The small business program is a very important one to the Air Force, the DOD, and the entire country. Small businesses should be allowed to compete for and receive government contracts which they are capable of performing. Exactly how that advance determination of capability (or of incapability) should be made seems to be in dispute between the small business advocate, the SBA, the consumer of the supplies or services, the government requiring activity and its agent, the contracting officer. Since poor performance by an SBA backed contractor helps no one--not the contractor, the SBA or its programs, the requiring activity, or the taxpayer--a resolution of this problem is necessary and important. This thesis has attempted to illuminate the problem so that solutions will not be advocated in the dark.

Appendix: Certificate Of Competency Process









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The Small Business Administration (SBA) is authorized to certify small businesses as competent with respect to all the elements of responsibility for the exclusive purpose of performing a single government contract. The SBA issues the business a Certificate of Competency (COC) which overrides the contracting officer's determination of nonresponsibility and requires award of that specific contract to the firm.

The guidance contained in the SBA's Certificate of Competency Standard Operating Procedure, SOP 60 04 3, was compared with the guidance contained in the Federal Acquisition Regulation, and the Defense Logistics Agency Manuals 8300.1 and 8200.2 used by the Defense Contract Administration Service (DCAS) for conducting preaward surveys on behalf of Department Of Defense contracting officers.

The COC appeal files at the Office of Small and Disadvantaged Business Utilization (OSDBU) of the Office of the Secretary of the Air Force were reviewed to gain an understanding of the quantity of Air Force appeals undertaken. One COC appeal undertaken by the Air Force on behalf of an Air Force Logistics Command Air Logistics Center contracting officer and subsequently lost was selected for a case study analysis *in this study.*

Three recommendations based on weaknesses identified by this research are: 1) expand the COC Quarterly Report, RCS: DD-DR&E (Q) 1152, to list the reason(s) for the contracting officer's referral, to include more detail in the "Final Disposition" column, and to total the number of COC contracts awarded during that quarter; 2) inform contracting officers of the COC appeal process and encourage more appeals; 3) provide more definitive guidance in the procedures used by the contracting officer for assessing contractor responsibility in the areas of tenacity and perseverance, and integrity. Revise the SBA COC Procedures to measure contractor delivery performance against the original delivery schedule except when adjustments were necessitated by the government's actions.

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